

LAWS

OF A

LOCAL NATURE

PASSED AND PUBLISHED AT THE TWENTY-THIRD SESSION

OF THE

GENERAL ASSEMBLY

OF THE STATE OF INDIANA.

HELD AT INDIANAPOLIS, ON THE FIRST MONDAY IN DECEMBER, ONE THOUSAND

EIGHT HUNDRED AND THIRTY-EIGHT.

BY AUTHORITY.

INDIANAPOLIS:

DOUGLASS & NOEL, STATE PRINTERS.

1839.

LAWS

OF A

LOCAL NATURE.

CHAPTER I.

An Act making general appropriations for the year 1839.

[APPROVED FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That there be appropriated for the expenses of the general assembly, including the pay of members, secretaries, clerks, sergeant-at-arms, door-keepers, and fuel, together with all other expenses incidental to the present session, the sum of forty-five thousand dollars; printing and stationary, binding and distributing the laws and journals, fifteen thousand five hundred dollars; contingent and specific appropriations, seven thousand two hundred dollars; judiciary, including prosecutors, nineteen thousand dollars; probate judges, three thousand five hundred dollars; executive officers, four thousand dollars; state library, four hundred dollars; state prison, one thousand two hundred and fifty dollars; state house, one thousand five hundred dollars; geological survey, for the year 1839, seventeen hundred and fifty dollars.

This act to be in force from and after its passage.

CHAPTER II.

An Act making specific appropriations for the year 1839.

[APPROVED FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the principal and assistant secretaries of the senate, and the principal and assistant clerks of the house of representatives shall each be allowed five dollars per day, and the enrolling secretary of the*

senate and the enrolling clerk of the house of representatives, four dollars and fifty cents per day for each and every day they may have served as such during the present session; and the sergeant-at-arms of the senate and of the house of representatives, each the sum of three dollars and fifty cents per day for each and every day they may have served as such during the present session; the door-keeper of the senate and the door-keeper of the house of representatives, each three dollars and fifty cents per day for each day they may have served as such during the present session; and that the speaker be allowed the sum of fourteen dollars sixty-eight and three quarter cents postage paid by him during the present session of the general assembly.

SEC. 2. That David Beck, John Moore, and John Hogan, each be allowed two dollars and fifty cents per day as assistant door-keepers of the house during the present session.

SEC. 3. That Harrison Irvin be allowed two dollars per day for the time he served in splitting wood during the present session of the legislature.

SEC. 4. That Daniel Mace be allowed thirty-five dollars for assistance employed as assistant clerk of the house of representatives in pursuance of a resolution of the house.

SEC. 5. That there be allowed to Henry P. Coburn, to purchase a screw-press, for the office of the supreme court, thirty-five dollars.

SEC. 6. To William Hannaman and David V. Culley, twenty dollars each for services in examining and measuring the accounts of printers of state.

SEC. 7. To Isaac Coons, collector of Knox county, for eighteen hundred and thirty seven, sixty-seven dollars and two cents, for money overpaid for said year.

SEC. 8. To John H. Dunn, ten dollars and seventeen cents, as over-payment in treasury as collector of Clinton county for eighteen hundred and thirty-eight.

SEC. 9. To Sampson Leatherman, thirty dollars for services rendered the present session.

SEC. 10. That the assistant enrolling clerks and other clerks employed under the direction of this legislature be each allowed the same amount per day as allowed to enrolling clerks, to be audited on the certificate of the enrolling clerk or persons employing them.

SEC. 11. That there be allowed to Tomlinson and Sullivan sixty-three dollars six and a fourth cents for stationary furnished the present session of the legislature.

SEC. 12. That Thomas Cromwell, collector of the revenue of Clay county for the year eighteen hundred and thirty-seven, be allowed the sum of twenty-one dollars and thirty-nine cents; and that Lawrence Leonard, collector of said county for the year eighteen hundred and thirty-eight, be allowed the sum of twenty-two dollars and seventy-five cents, moneys overpaid by them into the state treasury, as appears by the certificate of the auditor of state; and that S. H. Smydth be authorized to draw the same and receipt for it to the treasury.

SEC. 13. That Douglass & Noel be allowed the sum of two hun-

dred and twenty dollars out of any moneys in the treasury not otherwise appropriated, part of the forfeiture reserved by the secretary of state on their accounts as public printers for the year eighteen hundred and thirty-eight.

SEC. 14. That the auditor of public accounts be directed to audit to the treasurer of state ten hundred and forty-two dollars and ten cents for moneys by him paid on account of expenditures for the state house, and incidental expenses of the general assembly, as set forth in vouchers numbered from one to forty-nine, as examined and certified by the committee on public buildings; but said treasurer shall, on receiving the warrant as aforesaid, file with the auditor the vouchers aforesaid.

SEC. 15. That Milton M'Phetridge be, and he is hereby allowed, the sum of fifteen dollars for his services as superintendent of the saline lands, in Monroe county, for the year eighteen hundred and thirty-eight, to be paid out of the saline funds now on hands.

SEC. 16. That the Governor of State be allowed at the rate of five hundred dollars per annum for house rent, until a house shall be furnished ready for his reception; and that the treasurer, auditor, and secretary, shall not, in making sale of public grounds to defray the expense of purchasing a residence for the governor, be authorized to sell the governor's circle, in the town of Indianapolis, or any part thereof.

SEC. 17. That David Miller and Asa Huston, assistant door-keepers of the Senate, be each allowed the same per diem allowance, as the assistant door-keepers of the House of Representatives.

SEC. 18. That the President of the Senate be allowed one dollar and seventy-eight and a half cents for postage paid during the present session.

SEC. 19. That George W. Moore be allowed twelve dollars for two days services in preparing the Senate chamber at the commencement of the present session of the General Assembly, and two days service as sergeant-at-arms.

SEC. 20. That the treasurer of state is hereby authorized to loan out for one year, all funds in the treasury not necessary for the current expenses of the state for the ensuing year, under such regulations, limitations, and restrictions, as are provided by law for loaning the Indianapolis funds.

SEC. 21. That the treasurer, auditor, and secretary of state, are hereby authorized, to settle with the binders of the last revised code of laws, in such manner as will equitably compensate them for the variations in their contracts, and for the delay incident to the printing of said work.

CHAPTER III.

An Act to incorporate the Rushville Steam Mill Company.

[APPROVED, JANUARY 28, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of building and managing a steam-mill for grinding grain, and driving such other machinery as may be attached to said mill, and carrying on the business incident thereto, in the town of Rushville, and county of Rush, Joseph Nicholas, H. G. Sexton, George Hibben, George B. Tingley, Joseph McPike, J. Hamilton, T. Pugh, and their associates, be and they are hereby declared a body politic and corporate, under the name and style of 'the Rushville Steam-mill Company;' and in such corporate name and capacity, may sue and be sued, plead, and be impleaded.

SEC. 2. The process against said corporation shall be by summons, which being executed on any director or president thereof hereinafter mentioned, the further proceedings shall be the same as against natural persons.

SEC. 3. The said corporation may have a common seal, and may change or alter the same at pleasure; and shall be capable of purchasing, holding, using, and conveying any estate real or personal necessary for the use and security of said corporation.

SEC. 4. The capital stock of said company shall be fifteen thousand dollars, and shall be divided into shares of fifty dollars each; but it shall be lawful for said corporation to commence their said business, when and as soon as four thousand dollars shall have been subscribed for, and with that capital to conduct and carry on the same until they shall find it expedient to extend their capital; which they are authorized to do, from time to time, to the amount herein before mentioned.

SEC. 5. The subscription to the said stock shall be opened under the direction of Joseph Nicholas, Thomas Pugh, and Samuel Davis, or any two of them, who are hereby appointed commissioners for that purpose, and are authorized to receive subscriptions to the said capital stock on such days, and at such place, after the passage of this act, at Rushville, as they shall appoint; and that the sum of five dollars, at least, shall be paid to the commissioners previous to the election of directors, on each share so subscribed as aforesaid.

SEC. 6. The stock, property, and concerns of said corporation, shall be managed and conducted by five directors, who shall be stockholders, and residents of Rush county; one of whom to be president, who may respectively hold their offices for one year, and until others shall be chosen, and no longer: *Provided*, that the directors first chosen, shall hold their offices until the first Monday of July, in the year eighteen hundred and forty, and until others shall be elected in their stead.

SEC. 7. So soon as the sum of four thousand dollars shall have been subscribed, and the sum of five dollars paid on each share, pursuant to the requisition of this act, the commissioners appointed by the fifth section of this act, shall give notice by written notices posted up at five of the most public places in said county, for an election of directors, on such day, and at such place in the town of Rushville, as said commissioners, or a majority of them, shall designate; which notice shall be given at least ten days prior to such election.

SEC. 8. The directors of said corporation shall be chosen annually on the first Monday of July in each year, after the term of the directors first chosen shall have expired, at such place in the town Rushville as a majority of the directors for the time being may prescribe; of which election notice shall be given at least fourteen days, by written advertisements, posted up at five of the most public places in said county of Rush, or by publication in some public newspaper printed in the town of Rushville.

SEC. 9. The first election herein contemplated, shall be held under the inspection of said commissioners; and all subsequent elections, under the inspection of the directors for the time being.

SEC. 10. All elections shall be by ballot, and a majority of all the votes present, allowing one vote for each share, shall be necessary to a choice.

SEC. 11. The directors chosen under the provisions of this act, as soon as may be after their election, shall proceed to elect one of their number president; and if any vacancy shall at any time happen among the directors, by death or otherwise, such vacancy shall be filled for the remainder of the term by the directors then in office.

SEC. 12. In case it shall happen at any time, that an election of directors should not be made on any day when, in pursuance of this act, it ought to have been made, the said corporation shall not, for this cause, be deemed to be dissolved; but it shall be lawful on any other day, to hold an election for directors, in such manner as shall be regulated by the bye-laws and ordinances of said corporation.

SEC. 13. A majority of the directors for the time being shall form a board or quorum for the transacting of all the business of said corporation, and shall have power to prescribe and make such by-laws, rules and regulations, not repugnant to the laws and constitution of the United States or of this state, as shall appear to them needful or proper, touching the management and disposition of the stock, property, estate and effects of the said corporation, the duties and conduct of the officers and men employed therein, the election of directors, and such matters as appertain to the concerns of said institution, and shall have power to employ as many persons as shall be necessary for carrying on the business of said corporation, and allow such pay as to them shall seem just.

SEC. 14. The stock of said corporation shall be assignable and transferrable according to such rules and regulations as the board of directors may make and establish, and shall be considered personal property; *Provided*, That no transfer of stock shall be valid or effectual,

until registered in a book to be kept for that purpose by the president, which book shall, at all reasonable hours for transacting business, be open to the examination of any stockholder or any person having any demand against the corporation or any member of it; and in case any officer of the company having charge of such book shall refuse to permit the same to be examined as aforesaid, he shall for every such offence forfeit the sum of one hundred dollars, to the Rush county seminary, to be recovered by action of debt, by any person who will sue therefor; together with costs of suit, and moreover be liable in damages, to the person whom he refused the privilege of examining said book, to the actual amount of damages he may have sustained in consequence of such refusal.

SEC. 16. The directors shall at all times keep or cause to be kept, at some proper place, proper books of accounts, in which shall be entered all the transactions of said corporation; which book shall be subject at all times to the inspection of the stockholders of said company.

SEC. 17. That said stockholders shall each be held responsible to all creditors, in his individual capacity, to the amount of his stock, on failure of a sufficiency of property belonging to said corporation; *Provided*, That said corporation shall at no one time be indebted to an amount exceeding the stock sold and held in said company. In case of excess, the directors under whose administration the same may happen, and by whose order or vote the same may have been created, shall be liable therefor in their individual capacity; but nothing in this section contained shall be so construed as to exempt said corporation from being also liable for said excess.

SEC. 18. The directors shall have power to receive and by due course of law to collect all subscriptions in writing, for the purpose of raising the funds necessary to carry into effect the object of said corporation, and shall be entitled to recover ten per centum damages on any instalment of stock which shall not be paid pursuant to the requisitions of the board of directors; or the said board may in their discretion, after failure to pay any instalment of stock as required, declare the part of said stock before paid in on said share, forfeited to the use of the company: *Provided*, That notice of such requisition shall be given by said directors, by advertisement in some public newspaper printed in the town of Rushville, in said county of Rush, at least thirty days before such instalment may be payable, specifying the amount thereof and when due; and if there shall be no paper printed and published in said town as aforesaid, at the time of making such requisition, then said directors shall give such notice by written advertisements posted up at five of the most public places in said county of Rush.

SEC. 19. This charter shall be, and is hereby limited to the term of fifty years, from and after the first day of August, eighteen hundred and thirty-nine, and said corporation shall not by the privileges herein granted, engage in any banking business whatever.

SEC. 20. This act shall be, and the same is hereby declared a public act, and shall take effect from and after its passage: *Provided, however*, That nothing herein contained shall be so construed as to pre-

vent the legislature at any time from amending, altering or repealing this charter by a vote of two-thirds of the members.

CHAPTER IV.

An Act to incorporate the Jeffersonville Association.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That George Graham Junr. and Augustus Moore, trustees for the Jeffersonville association, their successors and associates, and all and every person or persons that are now or may hereafter become interested, shall be and are hereby created, and made a body politic and corporate by the name and style of "the Jeffersonville association," and by that name have perpetual succession, and be capable by law to hold and dispose of property both real and personal, to sue and be sued, plead and be impleaded, answer and defend, and be answered and defended in all courts of law and equity, or in any other place whatever, and to receive and make all deeds, mortgages, transfers, contracts, covenants, conveyances and grants, whatsoever: and to make, have, and use a common seal, and the same to change and renew at pleasure; and generally to do every other thing or act necessary to carry into effect the provisions of this act, and to promote the object and design of said corporation.

SEC. 2. *Be it further enacted*, That there shall be held annually on the first Monday in September, or such other day as the board of directors may appoint, an election for directors, who shall not be less than seven nor more than twelve in number, a majority of which shall constitute a quorum for doing business to serve for one year, and until their successors are duly elected: *Provided*, that no person shall be elected a director unless he be a stockholder in said association.

SEC. 3. At all elections for directors each quarter share of stock shall entitle the holder to one vote, which may be given in person or by proxy.

SEC. 4. The present board of directors shall serve as such until the said first Monday in September, or until such time previous thereto, as they may designate for the holding of the annual election.

SEC. 5. All vacancies in said board of directors, shall be filled by the remaining directors, and any director ceasing to be a stockholder shall thereby vacate his office.

SEC. 6. The said directors as soon after their election as convenient, shall hold a meeting and elect one of their number president of their board, and shall then proceed to discharge the duties enjoined upon them by this act.

SEC. 7. The president and directors for the time being or a majority of them shall appoint all such officers, agents, and servants as they may deem necessary to conduct or execute the affairs and business of the institution, and to pass such rules, regulations, ordinances and by-laws for their own government and for the transfer of stock as they may deem proper, not inconsistent with the laws and constitution of this State or of the United States.

SEC. 8. The said board of directors shall have the power to appoint an agent, to authorize him to do all such acts as they by this act are authorized to do in the transactions of the business of the said Jeffersonville association and to facilitate the same. In all suits brought against said corporation, it shall only be necessary to serve process upon the agent of said association or the president of the corporation.

SEC. 9. This act to take effect and be in force from and after its publication in one of the newspapers published in Clark county, and remain in force for the term of ten years from and after its passage; *Provided, however,* that the legislature shall have the power to repeal this act of incorporation at any time.

CHAPTER V.

An Act to amend an act, entitled, an act to incorporate the Eel river bridge company, approved Feb. 6, 1837.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That J. S. Freeman, J. Y. Kennedy, James Stalcup, Bartholomew Elensworth and James B. Spooner, be and they are hereby appointed commissioners to open books for receiving subscription to the capital stock of said corporation, and the same books shall be opened on or before the tenth day of September, 1839, and each commissioner may receive subscriptions.

SEC. 2. The capital stock of said corporation shall be two thousand dollars divided into shares of fifty dollars each, and may be increased to not exceeding ten thousand dollars by the board of directors, if necessary for the purposes of this corporation.

SEC. 3. Whenever forty shares of the stock of said corporation shall be subscribed, the commissioners shall cause advertisements to be posted up in three of the most public places in the county, giving at least three weeks notice of the time and place of the meeting of the stockholders to choose directors according to the provisions of the act to which this is an amendment.

SEC. 4. If said bridge shall not be constructed within four years from and after the passage of this act, then and in that case, this act shall be null and void, otherwise to remain in full force and virtue for thirty years, from and after the tenth day of June, 1839.

SEC. 5. All laws and parts of laws coming within purview of this act, be and the same are hereby repealed.

SEC. 6. The act to which this is an amendment is hereby revived, except so much thereof as is repealed by this act.

This act to be in force from and after its publication in the Indiana Journal or Democrat.

CHAPTER VI.

An Act to incorporate the Marion Blues.

[APPROVED FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That David C. Kite, E. G. Carey, M. C. Woodworth, Wm. B. Hodge, John N. Stevens, James Lewis, Wm. Kinley, Oliver Goltbart, Robert S. Goudy, Aaron Swazey, Samuel M'Clure, Daniel Leave, and their associates and successors, be, and they are hereby constituted and declared to be a body politic and corporate by the name and style of the "Marion Blues," and by that name shall have perpetual succession, with full power and authority to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law and equity; to make, have, and use a common seal and the same to alter at pleasure; they shall have power to elect their own officers; to make, ordain, establish, and enforce such by-laws, rules, and ordinances not inconsistent with the constitution and laws of the United States or of this state, as they shall deem necessary for the welfare of said company, and to do all other acts in pursuance thereof necessary for the prosperity and good government of the same.

SEC. 2. All officers of said company shall be commissioned by the governor of the state of Indiana, and all resignations shall be made to him: and all elections for officers in said company shall be held at such time and place as may be directed by the company, due notices thereof being given.

SEC. 3. Said company shall be subject to the civil power, and ready when called on by the same to turn out for the purpose of aiding in quelling and suppressing all riots and insurrections which may happen within the county of Grant.

SEC. 4. Said company shall have power to assess and collect such fines for non-attendance on the parades and drills, or meetings, for the transaction of business of said company, not exceeding five dollars per day; and such fines for deficiency in equipments, not exceeding one dollar for each article, as may be established by the by-laws of said company. They shall also have power to expel from said company, or punish by fine not exceeding five dollars for all attempts or disobe-

dience of orders, or unsoldier-like conduct on parade, drill, or other meetings of the company; and all fines assessed by said company may be sued for by action of debt in the corporate name of said company, and collected before any justice, or other court having competent jurisdiction.

SEC. 5. All fines collected by said company shall be for the exclusive use of the same, and may be applied towards procuring colors, instruments of field music, tents, and camp equipage, defraying expenses, attending the performance of camp duty, and for teaching music in the said company.

SEC. 6. That when the regiment within the boundaries of which said company is situate, shall regularly organize and perform duty according to the laws of this state; the said company shall be required to drill and parade at the regimental and company musters or drills required by law, in addition to their usual drills and parades ordered by said company.

SEC. 7. That to enable said company to carry into effect the provisions of the fourth section of this act, they are hereby authorized and empowered to organize within themselves such courts as may be necessary to take cognizance of all delinquencies, contempts, and disobedience of orders and unsoldier-like conduct on the part of any member or members of said company.

This act to take effect from and after its passage; and to be subject to a repeal, at any time, by a vote of two thirds of the legislature.

CHAPTER VII.

An Act to incorporate the Indiana Mechanics' Institute.

[APPROVED FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William M. Taylor, Matthew Temperly, William Hendricks, jr., John Jewell, William Twyning, John C. Irvin, J. W. Hinds, John Todd, and Joseph R. Troxwell, directors of the Indiana Mechanics' Institute, and their associates be, and they are hereby created a body politic and corporate, by the name, style and title of the Indiana Mechanics' Institute, and by said name are hereby made capable in law, suing and being sued, pleading and being impleaded, answering and being answered unto, in any court of any description in this state or elsewhere, under the rules and regulations of law.

SEC. 2. That said Indiana Mechanics' Institute is hereby authorized to make all rules and regulations and by-laws, (not inconsistent with the laws of the state) necessary for their government, and to carry out the principles and objects of the institution, and they are here-

by authorized by such by-laws to make and create all officers necessary for the management and direction of the institute, and the same to add to, or diminish, and to appoint the time and manner of electing or appointing such officers together with their time of service.

SEC. 3. The said Indiana Mechanics' Institute is hereby empowered to purchase and hold a lot of ground and buildings necessary for their use, in carrying out the objects of the institute, and to hold any amount of personal property in books, maps, charts, moddles, apparatus and other property necessary to be used in such institution, and may receive donations in money and other property from any person or corporation; which money and property shall be disposed of in a reasonable time for such property as is necessary for the use of the institution.

SEC. 4. The said Indiana Mechanics' Institute is hereby authorized, when they may think proper so to do, to change their location, and for that purpose is authorized to sell and dispose of their real estate, and purchase other real estate for such location, and may from time to time dispose of such model and property as they may deem necessary for the advancement of their cause, and purchase such other property as may be useful to them.

SEC. 5. This act to take effect and be in force from and after its passage, and to be liberally construed, but shall be subject to amendment or repeal at any time by a vote of two-thirds of the legislature: *Provided however*, in case of repeal that said company shall have three years thereafter to wind up its concerns.

CHAPTER VIII.

An Act to incorporate the town of New Castle, in the county of Henry.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That John Taylor, Joseph Shelly, Joel Reed, David Macey, Miles Murphy, Asahel Woodward, and Jehu T. Elliott, of the town of New Castle, be, and the same are hereby appointed trustees of said town, to serve as such until the first Monday in November, 1839, and until their successors are elected and qualified, as hereafter provided.

SEC. 2. That the said trustees shall hold their first meeting on the first Monday in May next; shall choose a president from among their own body, who shall preside at all meetings of the board, preserve order, put all questions, and upon an equal division, give the casting vote; and at the close of each meeting, shall sign the minutes of the same. And the board at such meeting, shall appoint a clerk, assessor, collector, treasurer, and supervisors, and shall make such other regu-

lations as shall be necessary to carry into effect the provisions of this act.

SEC. 3. The president and trustees of said town, and their successors in office, are hereby declared a body corporate and politic, with perpetual succession, by the name and style of "President and Trustees of the Town of New Castle;" and by the corporate name shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction; and shall have power to make, ordain, and put in execution all rules, by-laws, and ordinances, necessary and proper for the convenience and benefit of the citizens of said town; and also all ordinances and regulations necessary for the police, good government, and order of said town, not inconsistent with the future provisions of this charter, with the constitution of this state, nor of the United States. They may have a common seal, the same to break, alter, or amend at pleasure.

SEC. 4. The said president and trustees shall cause an election to be held on the first Monday in November, 1839, and annually thereafter, for the purpose of electing seven trustees for said town, at some convenient place, for which public notice shall be given in such manner as said board of trustees shall direct; at which election every white male person, resident in said town, and a qualified voter at other elections, shall be entitled to vote; and the seven persons having the highest number of votes shall be declared duly elected.

SEC. 5. The president of the board of trustees for the time being, shall attend all elections for officers of the corporation, and nominate in the presence of the voters assembled, under such regulations as shall be prescribed by the board, an inspector, two judges, and one clerk of said election, who after taking an oath, or affirmation, for the faithful discharge of their duties, which the said president is hereby authorized to administer, shall between the hours of ten o'clock, A. M., and four o'clock, P. M., hold said election.

SEC. 6. It shall be the duty of the inspector of said election to certify, under his hand and seal, the persons having the highest number of votes, which certificate shall be filed and put on record by the clerk: which shall be sufficient authority for such persons to take their seats as trustees. The trustees thus elected, shall, before taking their seats as such, take an oath or affirmation for the faithful discharge of their duties. They shall serve one year, and until their successors are elected and qualified. All qualified voters shall be eligible to the office of trustees. When vacancies occur, they shall be filled by an appointment by the board, until the next annual election. A majority of the board shall form a quorum for the transaction of business; they shall sit on their own adjournments, and may call special meetings, and in the absence of their president, shall appoint one *pro tempore*.

SEC. 7. It shall be the duty of the president to sign all the ordinances, decrees, and proceedings of said board; and at their first meeting, they shall elect by ballot, a clerk, treasurer, assessor, and collector, all of whom shall serve one year, and until their successors

are chosen and qualified, and shall give such bond and security as shall be approved of by the board, recoverable at the suit of said board, before any court having competent jurisdiction.

SEC. 8. The president and trustees shall have power to lay and collect, annually, a tax on real and personal property, not to exceed one-fourth per centum on the valuation thereof; and on all shows, exhibitions, or amusements, exhibited for gain, any sum not to exceed fifty dollars, for the benefit and improvement of said town.

SEC. 9. The board shall have power to pass such ordinances and decrees, as may be necessary to guard against damage by fire, to organize fire companies, and govern the same; to regulate and govern the markets; to restrain and punish vagrants, street beggars, and common prostitutes; to restrain and regulate the running at large of cattle, horses, swine, sheep, goats, geese, or other animals, and to authorize the distraining, impounding, and sale of the same, for the penalty and costs of proceedings; to prevent and regulate the running at large of dogs, and to authorize the destruction of the same, when at large contrary to ordinance; to regulate the measurement of cordwood, tan-bark, and the plan and manner of selling and weighing hay; to remove public nuisances, and for that purpose shall have jurisdiction two hundred yards beyond the limits of said corporation; to declare what shall be a public nuisance, and generally to enforce by proper penalties all laws and ordinances relative to the police and government of said town.

SEC. 10. The limits of the corporation shall extend to, and embrace a plat of the town of New Castle, including the out lots, with any additions which have been or may hereafter be made thereto, as the same is or may hereafter be entered of record in the recorder's office of the county of Henry.

SEC. 11. It shall be the duty of the collector to collect the amount of taxes due from each individual on or before the first day of September in each and every year, and account and pay the same over to the treasurer immediately; and in all cases where the taxes assessed are not paid by the time, by any individual, it shall be the duty of the collector to proceed and collect the same by distress and sale, of any of the personal property of such delinquent, subject to execution by the laws of this state, by giving ten days notice of the time and place of such sale, by advertisement in three of the most public places in said corporation.

SEC. 12. In all cases where the taxes due cannot be made of the goods and chattels of such delinquents, or where the property taxed belongs to non-residents, it shall be the duty of the collector to make sale of the lots or fractions of lots belonging to such persons, or so much as will pay the taxes and costs due thereon, by giving notice of the time and place of such sale, by three successive publications in some public newspaper published in said county of Henry, and if there should be no newspaper published in said county, then in the one nearest thereto, at least six weeks prior to the day of sale, and also by posting up notices thereof in three of the most public places in said

corporation, which shall describe the lot or lots to be sold by their proper number, with owners names, if known, and if not, the name of the person to whom it is supposed to belong, and to file a copy of said advertisement with the clerk of said corporation, to be by him filed with the records of the same; the collector shall, on the day of sale, proceed to sell said lot or lots to the highest bidder, or to the person who will pay the taxes and costs due thereon, for the smallest portion of the lot or lots so offered for sale, and shall give such purchaser a certificate of such sale, setting forth the quantity sold, the amount paid, including taxes and costs; and that said purchaser shall be entitled to receive a deed for the same at the end of two years from the date of such certificate, unless the owner or owners of such property, or some person for him, her, or them, shall redeem the same before that time, by paying to said purchaser, his, her, or their heirs, or assigns, the amount of purchase money, with fifty per centum per annum thereon, or deposite the same with the clerk of the corporation, who shall make an exhibit of the same to the president and trustees at their next meeting, which shall be entered on record.

SEC. 13. In case the owner of any lot or fractional lot sold as aforesaid, his, her, or their agent or attorney, shall not pay the amount of the purchase money, with the per centum thereon as aforesaid, within two years from the day of sale thereof, it shall be the duty of the collector then in office, to make a deed to the purchaser, his, her, or their heirs, for each lot or fraction of lot, which deed acknowledged according to law, shall vest the title of such estate in the purchaser, his heirs, and assigns, and divest the owner or owners of any title thereto, and the assessment made on such property shall be a lien on the same in the hands of any person who may purchase the same at private sale; and no conveyance made by the owner of such after the time of such assessment, shall so divest the owner thereof of the title to said lot as to interfere with a purchaser under the provisions of this act: saving however to infants, femmes covert, and idiots, the right of redemption one year after their disabilities are removed.

SEC. 14. It shall not be lawful for any person within the bounds of the corporation to sell a less quantity than a quart, except for the use of the sick, any spiritous liquors, foreign or domestic, or keep what is commonly called a tippling house, unless such person or persons first obtain from the board in addition to the license required to be obtained from the county court, a license from the corporation, which it is hereby bound to grant on his or her paying into the treasury any sum not exceeding ten dollars, at the discretion of the board of trustees of said town and any person or persons selling any spiritous liquors, or keeping what is commonly called a tippling house within the limits of said town contrary to the provisions of this act, he, she or they so offending, upon conviction thereof before any court having competent jurisdiction shall pay a fine for the use of the corporation of any sum not exceeding fifty dollars nor less than two dollars; in all suits brought under this act it shall be lawful to declare in debt generally for any penalty or forfeiture, stating the by-law or ordinance or

regulation under which penalty or forfeiture is claimed and to file the special matter in evidence. And the defendant may in like manner plead the general issue to such action and give all matters in defence in evidence under that issue.

SEC. 15. All laws and ordinances passed by the president and trustees of a public nature shall be published either in a newspaper published in the county or by posting up copies of the same in three of the most public places in said town, ten days before the same shall be in force. And it shall be the duty of the board on or before the last Monday in October in each and every year, to cause a full statement of all receipts and expenditures for the past year to be posted up in two of the most public places in the corporation.

SEC. 16. That all the persons within the bounds of said corporation are hereby exempt from paying a road tax upon property or for personal privileges: *Provided however*, that all persons within the limits of said corporation subject to work on roads or pay tax, shall be required to labour a full equivalent upon the streets and alleys, and one quarter of a mile from the limits of said corporation on each and every road leading therefrom, under the direction of the town supervisors, and for every failure so to do, shall forfeit and pay the sum of seventy-five cents for each day, to be recovered before any justice of the peace in said town.

SEC. 17. That it shall be made the duty of the justice of the peace for the time being and his successor in office, of said town of Newcastle and one of the constables of Henry township, (for which purpose at all elections held therein for township officers it shall be the duty of the electors to elect one of the constables of said township, whose residence shall be within the limits of said corporation) to have and maintain jurisdiction under, and to enforce all by-laws and ordinances of said board of trustees not inconsistent with the constitution and laws of the State, for which said justice and constable shall be entitled to the same fees, bound by the same rules, and subject to the like penalties as are allowed and prescribed by the laws of this State in other similar cases: *Provided, however*, that all persons shall have the same right to change of venue, trial by jury and appeal as are now allowed by law in other cases: *Provided further*, that if a vacancy shall occur by death, removal, resignation or otherwise in said office of justice of the peace as aforesaid, any justice of the peace for said township shall have and maintain jurisdiction under the same rules and regulations as above in this section provided for the justice of the peace for the said town until their shall be another chosen and qualified.

SEC. 18. It shall be the duty of the jailor of Henry county to receive into his jail and custody for safe keeping until discharged by due course of law all persons committed to his charge by legal authority for any breach or violation of any of the laws, ordinances, or decrees of the said corporation, for which he shall be entitled to the same fees and governed by the same rules as in other cases under the laws of this state.

SEC. 19. This act shall take effect and be in force from and after its passage.

CHAPTER VIII.

An Act to incorporate the town of Jeffersonville.

[APPROVED, JANUARY 28, 1839.]

NAME AND GENERAL FORM OF CORPORATION.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the inhabitants of the town of Jeffersonville are hereby declared to be a body corporate and politic by the name and style of "the Town of Jeffersonville," and by that name they may have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended against, in any court of law or equity. They may contract and be contracted with. But said corporation shall not have the right to purchase or hold any real estate more than a sufficiency for public buildings or burying grounds; nor shall said corporation deal in any goods, wares or merchandize, for speculation, or in public stocks of any kind or description. They may at any time borrow money for the use of said corporation, but shall not loan money either directly or indirectly, nor deal in bills of exchange, writings obligatory, promissory notes or other evidences of debt, nor shall they issue any bills of credit or certificates of deposit to be used as money, or currency.

SEC. 2. Said corporation may have and use a common seal and the same break, alter or renew at pleasure, and make and enforce all by-laws and ordinances necessary for the good government and welfare of said town, not inconsistent with the constitution of the United States, and the constitution and laws of this state.

LIMITS OF CORPORATION.

SEC. 3. The limits of said town shall extend to and embrace the original plat of the town of Jeffersonville, and the out-lots, with all additions which have been or may hereafter be made thereto as the same are or may hereafter be entered of record in the office of the recorder of Clark county.

OFFICERS HOW CREATED, AND THEIR TERM OF SERVICE.

SEC. 4. The officers of the corporation shall consist of a mayor, ten councilmen, an assessor, a collector, a treasurer, a clerk, and a marshal.

SEC. 5. The mayor shall be elected by the qualified voters residing within the limits of the town, triennially, and shall hold his office for the term of three years, and until his successor is chosen and qualified.

SEC. 6. The councilmen shall be elected by the qualified voters residing in said town, annually, and shall hold their offices one year each and until their successors are chosen and qualified.

SEC. 7. The assessor, collector, treasurer, clerk, and marshal, shall be appointed by the common council, and shall hold their offices for the term of one year. The common council shall fix their compensation, and the same increase or diminish at pleasure.

COMMON COUNCIL AND ITS DUTIES.

SEC. 8. The mayor and councilmen shall constitute a board to be called the common council, of which the mayor shall be ex officio the president.

SEC. 9. Six members of the common council, exclusive of the mayor, shall constitute a quorum for the transaction of business, and in case of the absence of the mayor, or in case of a vacancy in his office, may elect one of their number president pro tempore of said council.

SEC. 10. It shall be the duty of the mayor to preside at all meetings of the board, unless when questions are pending in which he may be personally interested; but shall not be entitled to vote except in cases of a tie when he shall give the casting vote.

SEC. 11. In case of a vacancy in the office of mayor such vacancy shall be filled by a new election, two weeks notice thereof being given by the common council in some public newspaper printed in the town of Jeffersonville or by advertisements posted up at three of the most public places in said town.

SEC. 12. In case of vacancy in the office of any councilman, such vacancy shall be immediately filled by the board of councilmen, such appointment to continue until the next regular annual election, and until a successor is chosen and qualified.

SEC. 13. A full and accurate record of the proceedings of the common council shall be kept by the clerk, and each days proceedings shall be signed by the mayor or president pro tempore, and attested by the clerk.

SEC. 14. It shall be the further duty of the president to sign all laws, ordinances and decrees of a public nature, and the duty of the clerk to attest the same before their publication.

SEC. 15. The clerk shall accurately and faithfully record in a book kept exclusively for that purpose, in a fair, round, legible hand, all the by-laws, ordinances, and decrees of a public nature, which shall at all times be subject to the inspection of a citizen of said town who is a qualified voter; which by-laws, ordinances, and decrees, shall not take effect and be in force until after their publication in some public newspaper in said town, or by being posted up in three of the most public places in said town.

SEC. 16. Before entering upon the duties of his office, the mayor shall take an oath or affirmation faithfully to discharge the duties of his office, which oath shall be administered by any person thereunto authorized, and shall also give bond with security made payable to "the town of Jeffersonville," in the penalty of one thousand dollars, to be approved by at least six councilmen, for the faithful discharge of his duties, which bond shall be deposited with the clerk of the board of councilmen for the benefit of the corporation, or any person aggrieved.

MAGISTERIAL POWERS OF THE MAYOR.

SEC. 17. The mayor when elected and qualified shall have the same jurisdiction and power, in both civil and criminal cases, which justices of the peace in and for the township of Jeffersonville in the county of Clark have; and his jurisdiction shall extend to all cases of violation of any of the by-laws, ordinances, regulations, or decrees of the common council, in regard to every matter whatsoever.

SEC. 18. Said mayor shall have power to issue process in all cases within his jurisdiction, shall proceed in the same manner, and be entitled to the same fees as justices of the peace. He shall keep a docket, which in all respects shall have the same effect as a docket of a justice of the peace, and the parties to any suit before him shall have the same right to a change of venue, to trial by jury, and to an appeal to the circuit court, as if the suit were instituted and pending before a justice of the peace.

DUTY OF THE MARSHAL.

SEC. 19. It shall be the duty of the marshal to serve and return all process issued by the mayor, and his power for this purpose shall be co-extensive with the county of Clark. He shall attend all trials before the mayor, and shall be entitled to the same fees as constables for like services, and shall in addition to being the executive officer of the common council, be a peace officer within the town. In case of the absence or inability of the marshal, the mayor may direct process to any constable of Jeffersonville township, who shall serve and return the same as in other cases.

GENERAL PROVISIONS.

SEC. 20. No person shall be incompetent to be a witness or juror in suits for a violation of any by-law, ordinance, or decree of the common council, because such person may be a citizen of the town.

SEC. 21. The stated meetings of the common council shall be on the first Monday in each month in the year, and special meetings may be called at any time, the councilmen being duly notified thereof.

SEC. 22. The councilmen and the assessors, collector, treasurer, clerk, and marshal, shall severally be sworn faithfully to discharge the duties of their respective offices before entering thereon, and the trea-

surer, collector, and marshal, shall severally give bond payable to the "town of Jeffersonville" in such penalty as may be required by the common council for the faithful discharge of their duties, and for faithfully accounting for all moneys or property that may come into their hands by virtue of their respective offices, the security to be approved of by the common council, which bonds shall be filed in the office of the clerk of said corporation for the benefit of the corporation or any person aggrieved.

SEC. 23. In case of the rendition of judgment upon any bond taken by virtue of this act against the makers thereof, no stay of execution shall be allowed thereon; and in all suits upon any official bond given by virtue of this act, the same shall be instituted in the circuit court of Clark county.

THE MODE OF ELECTING MAYOR AND COUNCILMEN.

SEC. 24. Every qualified voter of this state, not a pauper, who shall have resided in the town of Jeffersonville for six months next preceding the election, shall be entitled to vote for mayor and councilmen of said town: *Provided, however,* That no person shall be entitled to vote who has not paid his corporation poll tax assessed to him for the year preceding said election.

SEC. 25. An election for mayor shall be held at the old court house or some other convenient place in Jeffersonville on the first Monday in June, 1839, and on the first Monday in June triennially thereafter, between the hours of ten o'clock A. M. and four P. M. of said day, of which election there shall always be given two weeks notice in some newspaper printed in said town, or if there should be no paper printed in said town, then by advertisements posted up in three of the most public places within the limits of said town. Of the first election of mayor, to be held by virtue of this act, notice shall be given by the existing board of trustees of said town, and of all subsequent elections for the same office, notice shall be given by the common council.

SEC. 26. On the first Monday of June next and annually thereafter, polls shall be opened in said town for the election of ten councilmen, at which election all persons authorized to vote for mayor, shall be entitled to vote for councilmen, notice of such election to be given for the same period and in the same manner as is provided in the case of the election of mayor: *Provided, however,* That separate polls shall be opened for mayor and councilmen, but nothing herein shall prevent the judges and clerks of the election of mayor, from acting as judges and clerks in the election of councilmen.

SEC. 27. The common council as constituted under the provisions of this act shall, so soon as they shall deem expedient, divide the said town of Jeffersonville into separate wards, not less than five, nor more than ten, and shall apportion to each a fair and equal representation in said common council, and shall provide for the holding of elections in said wards so created, for mayor and councilmen, the electors of each ward voting for mayor, and the number of councilmen to them apportioned.

SEC. 28. Until the said town shall be divided into wards, and the apportionment of councilmen made according to the provisions of this act, the electors of said town shall vote by general ticket for the whole number of councilmen as herein provided for.

SEC. 29. That from and after the division of said town into wards, any person voting out of the ward of which he is a resident, for councilmen, shall be deemed guilty of a high misdemeanor, and on conviction thereof by presentment or indictment in the circuit court of Clark county, shall be fined in any sum not exceeding one hundred dollars, and any person voting more than once at the same election for the same office, whether for mayor or councilmen, shall be liable to the same penalty in the same manner.

SEC. 30. All elections for mayor and councilmen shall be by ballot.

SEC. 31. In the first election for mayor and councilmen by virtue of this act, the president of the existing board of trustees, shall, with two other qualified voters of said town, to be by him selected, act as judges, they being first sworn faithfully to discharge their duties as such. After being sworn they shall select some qualified voter of the town as the clerk of such election, who shall also be sworn in like manner: *Provided however*, that in case of the absence of such president, some other qualified voter of said town may be selected in his stead by the electors present, who shall then be invested with the same powers.

SEC. 32. When so qualified as aforesaid, said judges shall proceed to receive and count the votes given, and the clerk to keep a correct list thereof; and on the day subsequent to such election, said judges, under their hands and seals, shall certify to the clerk of the existing board of trustees, the name of the person receiving the highest vote for mayor, who shall thereupon be deemed duly elected, which certificate shall be filed and recorded by said clerk on the records of said board; the judges shall also certify to the said clerk the names of the persons receiving the highest number of votes for councilmen, which certificate shall be filed and recorded in like manner.

SEC. 33. When such certificate shall be so filed it shall be the duty of the clerk of said board to make out and deliver to the mayor and councilmen so elected, certificates of election, which shall be a sufficient and full authority to said persons to exercise the powers delegated to them by virtue of this act after taking the oath and giving the bond required by law.

SEC. 34. All elections held for mayor and councilmen of said town, after said town shall have been divided into wards, shall be conducted by judges or inspectors appointed by the board of common council for the respective wards, who shall proceed in all respects as provided in the foregoing sections of this act. The inspectors for the several wards shall select clerks from among the qualified voters of said wards, and at the close of the polls in their respective wards it shall be the duty of said inspectors to meet at the office of the clerk of the common council, and com-

pare their poll-books, and certify the result to the said clerk as provided in the 32d section of this act.

SEC. 35. The inspectors of elections for the several wards shall before entering upon the duties of their office take an oath or affirmation that they will faithfully discharge the duties assigned them, which oath or affirmation shall be administered by any person thereunto authorized; and when so appointed and qualified they shall have the same powers, and be entitled to the same compensation as is provided for inspectors in cases of elections general.

SEC. 36. No person shall be eligible to the office of mayor or common councilman unless he is a qualified voter and a freeholder of said town.

SPECIFIC POWERS OF THE COMMON COUNCIL.

SEC. 37. The common council shall have power to assess annually against each male inhabitant of said town, who shall be twenty-one years of age, sane and not a pauper, a poll tax not exceeding fifty cents, [and upon all lands, tenements, hereditaments, and the appurtenances thereto belonging,] and upon such goods and chattels as they shall from time to time designate, a tax not exceeding one half of one per centum on the full value thereof, and to fix the rates of all licenses to retailers of spirituous liquors at such sum as they may deem best for the interests of said town.

SEC. 38. Said council shall on or before their stated meeting in July in each year, determine what goods and chattels, if any, shall be assessed and taxed, and thereupon the clerk shall forthwith make and deliver to the assessor a copy of the assessment roll of the previous year, together with a precept under the seal of the corporation, commanding him in the name of the common council, on or before the first Monday in August next, to make and return to said council a complete list of all persons liable to the poll tax as aforesaid, and all lands, tenements, hereditaments, goods, and chattels, liable to be assessed and taxed by the order and the determination of said council, with the names of the owners, and a just and fair valuation of all such property.

SEC. 39. The assessors shall execute and return said precepts according to the command thereof, carrying out said list in the alphabetical order of the names of all persons liable for such taxes, and every such assessment shall be made or taken as if made on the first Monday in June, annually, from which time the taxes of the then current year shall be a lien upon the property assessed and a charge against the owners of such property until paid.

SEC. 40. So soon as the said assessment shall be made and returned, the common council shall determine the rate per centum of the tax to be levied on the assessment aforesaid, and thereupon the clerk shall forthwith make and deliver to the collector an alphabetical list of the persons named in the assessment roll, and the amount of tax of the current year and of the delinquent taxes of the preceding years chargeable against each, specifying whether the same is a poll or pro-

erty tax, and if the latter, concisely describing the property; together with a precept under the seal of the corporation, commanding said collector in the name of the common council to collect the taxes charged in said list, and that he return said precept and list and pay over to the treasurer the money so collected on or before the first Monday in December then next.

SEC. 41. The collector shall on or before the first Monday in September, demand payment of the taxes of the persons charged therewith respectively, or at their most usual place of residence, and upon payment thereof, he shall receipt therefor, specifying the year, the property on which the same was assessed, and the amount of such tax.

SEC. 42. If any tax shall not be paid on or before the first Monday in September, the collector shall proceed to collect the same by distress and sale of goods and chattels of the person charged therewith, or of the goods and chattels found on the lands, tenements or hereditaments upon which the unpaid tax was assessed, giving ten days' notice of such sale by written or printed advertisements put up in three of the most public places in said town.

SEC. 43. In all cases where the taxes due cannot be made out of the goods and chattels of such delinquents, or where the property taxed belongs to non-residents, it shall be the duty of the collector to make sale of the lots or fractions of lots belonging to such persons, or so much as will pay the taxes and costs due thereon, by giving notice of the time and place of such sale in some weekly newspaper published in the county of Clark, with the owner's names if known, and if not the names of the persons to whom it is supposed to belong, and to file a copy of said advertisement with the clerk of the board of common council, to be by him filed with the records of said town. The collector shall on the day of sale proceed to sell said lot or lots to the highest bidder, or to the person who will pay the taxes and costs due thereon for the smallest portion of the lot or lots so offered for sale, and shall give such purchaser a certificate of such sale, setting forth the quantity sold, and the amount paid, including taxes and costs; and that said purchaser shall be entitled to receive a deed for the same at the end of two years from the date of such certificate, unless the owner or owners of such property, or some person for him, her, or them shall redeem the same before that time, by paying to said purchaser, his, her, or their heirs or assigns, the amount of purchase money, with fifty per centum per annum thereon, or deposit the same with the clerk of the corporation, who shall make an exhibit of the same to the board of common council at their meeting which shall be entered on record.

SEC. 44. In case the owner of any lot or fractional lot, or lots sold as aforesaid, his, her, or their agent, or attorney, shall not pay the amount of the purchase money, with the per centum thereon as aforesaid, within two years from the day of sale thereof, it shall be the duty of the collector then in office, to make a deed to the purchaser, his, her, or their heirs, or assigns, for such lot or fraction of lot, which deed acknowledged according to law, shall vest the title of such real estate

in the purchaser, his heirs, and assigns, and divest the owner or owners of any title thereto; and the assessment made on such property shall be a lien on the same in the hands of any person who may purchase the same at private sale, and no conveyance made by the owner of such after the time of such assessment, shall so divest the owner thereof of the title to said lot, as to interfere with the claim of a purchaser under the provisions of this act; and every conveyance made by such collector, by virtue of this act, shall be *prima facie* evidence of regularity of his proceedings prior thereto.

SEC. 45. The common council shall at all times have full power to refund any moneys wrongfully collected as taxes, and to correct any assessment or tax list, as to them shall seem right.

SEC. 46. In addition to the powers herein before granted, the common council shall have the control of the finances, and of all the property both real and personal, belonging to the corporation; and shall have power within said town, to make, establish, publish, alter, modify, amend, and repeal ordinances, rules, regulations, and by-laws, for the following purposes:—

1. To prevent and punish forestalling and regrating, and to prevent and restrain every kind of fraudulent device and practice within said town.

2. To prevent, restrain, prohibit, and punish all descriptions of gaming, in said town.

3. To regulate or prohibit the exhibitions of common showmen, and of shows of every kind, or the exhibitions of natural or artificial curiosities, caravans, and circuses.

4. To prevent any riot, or noise, disturbance, or disorderly assemblages in said town.

5. To suppress and restrain disorderly houses and groceries, houses of ill fame, billiard tables, nine or ten pin alleys or tables, and ball alleys, and to authorize the destruction and demolition of all instruments for the purpose of gaming.

6. To compel the occupant or owner of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house, to cleanse, remove, or abate the same from time to time, as often as may be necessary for the health, comfort, or convenience of the inhabitants of said town, at the discretion of said council.

7. To direct the location of all slaughter houses, market houses, and houses for storing powder.

8. To regulate the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns and stables.

9. To prevent horse-racing, immoderate riding, and driving in the streets.

10. To prevent the incumbering of streets, side walks, lanes, alleys, wharves, and docks, with carriages, carts, sleighs, drays, sleds, wheelbarrows, boxes, lumber, fire wood, timber, or any other substance or material whatsoever.

11. To regulate and determine the times and places of bathing and swimming in the river near the town.

12. To restrain and punish vagrants, mendicants, street beggars and common prostitutes.

13. To restrain and regulate the running at large of horses, cattle, swine, sheep, goats, and geese, and to authorize the distraining, impounding, and sale of the same, for the penalty incurred and costs of prosecution.

14. To prevent the running at large of dogs, and to authorize the destruction of the same, when running at large contrary to an ordinance of the town.

15. To prohibit any person from bringing, having, or depositing within the limits of the town, any dead carcass, or other unwholesome substance, and to require the removal or destruction of any such substance, or any putrid or unsound beef, pork, fish, hides, or skins of any kind, by the persons on whose premises the same may be found, and on his default, to authorize the removal or destruction thereof by some officer of the town.

16. To prohibit the rolling of hoops, playing at ball, flying kites, or any other amusement or practice, having a tendency to annoy persons passing the streets, or endanger their safety, or to frighten teams, or horses within the town.

17. To compel persons to keep the snow, ice, and dirt from the sidewalks in front of the premises owned or occupied by them.

18. To prevent the disorderly ringing of bells, blowing of horns, trumpets, and bugles, and crying of goods and other things within said town.

19. To abate and remove nuisances, and for this purpose the jurisdiction of said corporation is hereby extended to the distance of one-half mile beyond the limits of the town in every direction.

20. To regulate and restrain runners for boats and stages.

21. To regulate the burial of the dead, and provide for the security and sanctity of the public burying ground. They may also purchase and hold ground for that purpose, and vacate any old grave yard now existing in said town, provide for the removal of the dead therefrom, and dispose of the ground as to them shall seem proper.

22. To provide for the keeping and returning to the council, bills of mortality, and to impose penalties on physicians and sextons for any default in this respect; to establish a board of health, and regulate its powers, and prescribe its duties.

23. To regulate guaging, the place and manner of weighing and selling hay, of measuring and selling wood and lime, of measuring or weighing and selling coal, and to appoint suitable persons to superintend and conduct the same.

24. To appoint watchmen and prescribe their powers and duties.

25. To regulate cartmen, draymen, cartage and drayage.

26. To regulate the police of said town.

27. To regulate the quality of bread offered for sale, and provide for the seizure and forfeiture of bread of a different quality, and pro-

hibit the sale of other unwholesome provisions, and prescribe the penalty therefor.

28. To establish, make, and regulate public pumps, wells, cisterns, reservoirs, and prevent the unnecessary waste of water.

29. To establish and regulate public pounds.

30. To establish market houses, and prescribe the regulations thereof.

31. To provide, by insurance or otherwise, for the security of the property of the corporation.

32. To prevent the firing of guns and pistols within said town.

33. To purchase fire engines, and organize fire companies.

34. To erect and maintain alms houses and hospitals for the relief of the poor and afflicted.

35. To erect a jail for the use of said corporation, appoint a jailor and prescribe his duties, and the same remove at pleasure.

36. To erect and provide for the support of a work house, for the punishment of offenders against the ordinances, rules, and regulations of said town.

37. To regulate the construction of chimneys, fire places, hearths, and stove pipes, so as to guard against damage by fire.

38. To survey and mark the boundaries of said town.

39. To prohibit the selling by retail of any spiritous liquor or ardent spirits to be drank in any store, grocery, out house, shop, yard, or garden, owned or occupied by the person selling the same, without a license from the said common council, and to enable the said common council to attain the end and carry into effect the powers granted in this section, so far as the same relates to the granting of licenses to retailers of ardent spirits and spiritous liquors, and to guard against collision with the board doing county business for the county of Clark, the said common council shall have concurrent jurisdiction with said board doing county business.

SEC. 47. The common council shall have power from time to time to appoint such additional assistant marshals, constables, or other officers, or agents, as they may deem necessary to carry out and enforce the orders, ordinances, by-laws, decrees, and regulations of said corporation, and to prescribe their duties and regulate their compensation, and the same remove at pleasure.

SEC. 48. The said common council may do and perform all things necessary to carry into effect the powers granted to them by this act, and enforce obedience of all rules, ordinances, decrees, by-laws, and police regulations, made in pursuance of this act, by imposing penalties for the violation thereof, not exceeding one hundred dollars for any one offence; to be recovered in the name of "the town of Jeffersonville," before the mayor or any justice of the peace of Jeffersonville township, in an action of debt, with costs of suit.

SEC. 49. Every such ordinance, by-law, police regulation, or decree, imposing any penalty or forfeiture, for a violation of its provisions, shall, after the passage or adoption thereof, be published for three weeks successively, in some public newspaper published in said

town, or by printed advertisements posted up in three of the most public places in said town for the same period, and proof of such publication by the affidavit of the printer, or clerk of the board of common council, taken before any person authorized to administer oaths, or any other competent proof of such publication, shall be conclusive proof of the legal promulgation and existence of such ordinance, by-law, police regulation, or decree, in all courts and places.

SEC. 50. In all actions brought to recover any penalty or forfeiture incurred under any ordinance, by-law, or police regulation, made in pursuance of this act, it shall be lawful to declare in debt generally, for such penalty or forfeiture, stating the by-law, ordinance, or regulation, under which the penalty or forfeiture is claimed, and to give the special matter in evidence; and the defendant may, in like manner, plead the general issue to such action, and give all matters of defence in evidence under that issue.

SEC. 51. The first process in such action shall be a *capias* or warrant, and execution may be issued immediately on the rendition of judgment, and all expenses incurred in prosecutions for the recovery of any penalty or forfeiture as aforesaid, shall be defrayed by the corporation; and all fines and forfeitures when collected, shall be paid to the treasurer for the use of said town.

SEC. 52. Any person against whom any judgment is rendered for any penalty or forfeiture incurred, by reason of a violation of any ordinance or by-law of said corporation, who refuses to pay said judgment, or in default of goods and chattels out of which to make the same, may be committed to the jail or work house of said corporation, for any period not exceeding thirty days, or compelled to work on the streets of said town at the rate of fifty cents per day until such judgment is fully satisfied with costs of suit, in the discretion of the mayor or justice of the peace by whom such judgment was rendered; and the warrant of said mayor or justice of the peace shall be sufficient authority for the jailor, or keeper of the work house, to receive such person, and for the officer in whose hands it may be placed to execute it: *Provided, however,* That the said corporation shall furnish suitable food and lodging to offenders sentenced to imprisonment by virtue of this act, during the time they shall be so imprisoned or compelled to work.

SEC. 53. For all purposes whatsoever the limits of the town south shall be co-extensive with the limits of the state, and the jurisdiction of said town over the river Ohio, shall be co-extensive with the jurisdiction of the state.

SEC. 54. The common council shall have the sole and exclusive control of all the streets, alleys, and lanes, in said town, with full power from time to time, to open, grade, pave, McAdamize, and improve the same; and, for the purpose of preventing all misunderstanding, it is hereby expressly declared, that no portion of the territory within the limits of said town, shall be included in any road district, nor shall the citizens or the property of said town be subject to taxation for

county or state road purposes, any thing in the laws of the state to the contrary notwithstanding.

SEC. 55. Whenever two-thirds of the resident lot holders on any street, alley, or lane, shall petition the board of common council to have the said street, alley, or lane graded, paved, or McAdamized, the said board of common council may proceed to have the same graded, paved, or McAdamized, as to them shall seem best, and to defray the expenses of the same, the said council may levy an *ad valorem* tax upon all the lots or fractions of lots adjacent to and fronting the said street, alley, or lane, and the same collect in manner and form as provided for in the preceding sections of this act, which prescribe the mode of collecting other corporation taxes.

SEC. 56. The common council shall also have power to construct wharves and convenient landings for vessels, at the termination of the streets at the river within said town, and also at any other point on said river, where the property is or may be owned by the corporation; to regulate the rates of wharfage, and collect the same for the use of the corporation.

SEC. 57. On the organization of the common council as provided by this act, all laws, and parts of laws, by which the town of Jeffersonville has been incorporated, and all laws coming within the purview of this act, shall be and the same are hereby repealed; and said common council shall thereupon, have full power and authority to demand and recover and receive all books, papers, moneys, and effects, together with every species of property belonging to the corporation at the time of the organization of the common council, which shall vest in the town of Jeffersonville as a corporate body organized by virtue of this act.

SEC. 58. The proceedings of the board of trustees of the town of Jeffersonville are hereby legalized.

SEC. 59. This act shall be a public act, and shall be liberally construed by all the courts of this state, and shall take effect and be in force from and after its approval by a majority of the qualified voters of the said town of Jeffersonville voting for such purpose. They may assemble at such time and place as the present board of trustees shall appoint, and shall vote "*charter*," or "*no charter*."

SEC. 60. It shall be the duty of the present board of trustees of the said town, to provide for the opening of polls, for the purpose of taking the sense of the qualified voters of said town on the reception of this charter, when thereunto requested by five freeholders of said town; they shall appoint inspectors and clerks for conducting the same, whose duty it shall be to certify the result of said election to the clerk of the then existing board of trustees; and should a majority of said voters refuse to accept the charter hereby granted, nothing in this act shall be so construed as to prevent them from doing so at any future time; nor shall any thing contained in this charter be so construed as to prevent the Legislature from amending or repealing the same at any time.

CHAPTER IX.

An Act to incorporate the Wilmington and Aurora Insurance company.

[APPROVED, FEBRUARY 2, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That there shall be and hereby is established in Dearborn county, as hereafter directed, an insurance company with a capital stock of one hundred thousand dollars to be divided into shares of fifty dollars each, and subscribed and paid for by individuals, companies, or corporations in manner hereinafter specified, which stockholders and subscribers and their successors shall be and are hereby created a body politic and corporate with perpetual succession by the name and style of the Wilmington and Aurora insurance company, for the period of fifty years from and after the passage of this law, and by that name shall be capable to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places, and in all matters whatsoever, with full power to acquire, hold, possess, use, occupy and enjoy, and the same to sell, convey and dispose of, all such real estate as shall be necessary and convenient for the transaction of its business, or which may be conveyed to said company for the security, or in payment of any debt, which may become due, and owing to the same, or in satisfaction of any judgement of any court of law, or any order or decree of any court of equity, in their favor; and may have and use a common seal, and the same alter, change, break or renew at pleasure; and may also make, ordain, establish and put in execution, such by-laws, ordinances, rules and regulations as shall be necessary and proper for the good government of said company, and the prudent and efficient management of its affairs: *Provided*, that no by-laws, ordinances, rules or regulations of said company, shall in any wise be contrary to the constitution and laws of this state, or of the United States: *And provided also*, that said company shall not own or hold, at any one time, by legal title, a greater amount of real estate, than shall be of the value of two hundred thousand dollars.

SEC. 2. That said corporation shall have full power and lawful authority to insure all kinds of property against loss or damage by fire, or any other cause of risk, to make all kinds of insurance against loss or damage on goods, merchandise and produce, in the course of transportation or otherwise, whether on land or on water, and vessels or boats, wherever they may be, to make all kinds of insurance upon life or lives, to lend money on bottomry or respondentia, to cause themselves to be insured against any loss or risk they may have incurred in the course of their business, and against any maritime or other risk, upon the interest which they may have in any vessel, boat, goods, merchandize or other property by means of any loan or loans which they may make or mortgage, bottomry and respondentia, and generally to

do and perform all other necessary matters and things connected with and proper to promote these objects.

SEC. 3. That it shall be lawful for said company to invest any part of their capital stock, money, funds, or other property in stock or funded debts, created or to be created, by or under any law of the United States, or of this or any other particular state, or in the stock of any chartered bank of this state, or of the United States, or any branches thereof, and the same to sell and transfer at pleasure, and again to invest the same or any part thereof, in such stocks or funds, whenever and so often as the exigencies of said corporation, or a due regard to the safety of its funds may require, or they may loan the same or any part thereof to individuals or corporations, and upon such terms as the directors for the time being, shall deem prudent and best for the interest of said company; that the office of the Wilmington and Aurora insurance company be, and the same is hereby made an office of discount and deposit, and are hereby authorized to deal in exchange and the discount of promissory notes, and to receive cash and bank bills of any incorporated bank on deposit, for such time and on such interest, as may be agreed on, and to discount or loan the same: *Provided, however*, that all deposits made in said office, shall be refunded and paid by said corporation, on demand, in specie or its equivalent, except where special deposits are made, which shall be refunded and paid as agreed upon: *And provided also*, that it shall not be lawful for said corporation to issue or emit any bills of credit, or any bills payable to order or bearer, as a circulating medium of trade or exchange, nor in any manner engage in the business or operation of banking, otherwise than in the purchase and sales of bank stock as aforesaid.

SEC. 4. That in all cases where said company shall refuse to pay deposits made in said office, on demand, the amount of the same shall be recovered by motion or suit, in any court of competent jurisdiction, ten days previous notice of said motion, if before the circuit court, and three days notice if before a justice of the peace, having been given; and upon judgment rendered therein, and upon all other judgments, against said corporation, for deposits, shall be allowed ten per cent. damages and interest after the rate of six per centum per annum from the date of such legal demand, and upon which judgment there shall be no stay of execution.

SEC. 5. That it shall be sufficient service of process on the corporation hereby created, to execute the writ or notice on the president or secretary, and a majority of the directors, for the time being; and such service shall authorize judgment on proceedings by default, against the corporation, in the same manner that judgments are taken by default against individual persons, on the execution of process.

SEC. 6. That the real and personal estate, business, property, funds and prudential concerns of said corporation, and the administration of its affairs, shall be under the management, direction and control of a board of nine directors, who shall be stockholders and citizens of the state of Indiana, and after the first election they shall be elected by the stockholders, on the second Monday in October, annually, at such time of day as said directors for the the time being shall di-

rect; they shall hold their offices for the term of one year, and until their successors shall be chosen; and notice of such election shall be advertised and published, for three weeks next preceding the same, in a newspaper printed in said county; and such election shall be held by ballot, and a plurality of votes received and counted in public, by and under the inspection of three stockholders, not directors at the time, to be previously appointed by the board of directors for that purpose; and at every such election, and all other meetings of the stockholders held under the provisions of this act, each shall be entitled to one vote for each share: *Provided*, that no stockholder shall be entitled at any time to more than twenty-five votes, and any stockholders not personally attending such election or other regular meeting of the stockholders, and having a right to vote, may vote by proxy, such proxy being granted to a stockholder present at such election or meeting; and in case it should happen that an election of directors should not be made on any days, when by this act it ought to have been made, it shall and may be lawful for said company, to make an election for directors on any other day, in such manner as may be provided for by the by-laws and ordinances of said corporation.

SEC. 7. That the directors duly chosen under the provisions of this act, shall, as soon as may be after the first, and every annual election, elect from their own body, a president, who shall preside in the board until the next annual election, and in case of his death, resignation, or absence, the board shall appoint a president *pro tempore*; they shall fill all vacancies which may occur in their own body during the time for which they were elected, and shall appoint a secretary and all subordinate officers, clerks, agents, and servants of said corporation, fix their compensation, define their powers, and prescribe their duties, who shall hold their several offices during the pleasure of the board, under such regulations, restrictions and limitations, not inconsistent with the provisions of this act and the by-laws, rules and ordinances of said company, as the directors for the time being shall prescribe; they shall make such by-laws, rules and regulations for their own government, and for the management and disposition of the stock, property, estate, funds and business of said company, and all matters referring thereto, as shall be needful and proper, not contrary to the provisions of this act, and the by-laws, rules, ordinances and regulations adopted at any regular meetings of the stockholders; they shall hold stated meetings, agreeably to their own regulations, and at such times as the president thereof, for the time being, shall order and direct; and a majority of the whole number shall constitute a quorum, and be competent to the transaction of business within the scope of their powers, and connected with their duty; and all questions before the board shall be decided *viva voce*, by a majority of the directors present, any two of whom may require yeas and nays to be taken on any proposition submitted and entered in the journal of their proceedings, and no vote shall be rescinded by a less number than were present and voting when the original vote was taken. They shall in the first week of January and July, annually, make and declare such dividends of the profits resul-

ting from their business, and shall not impair, or in any wise lessen the capital stock of the same, and cause the same to be paid to the several stockholders.

SEC. 8. That all policies of insurance, which may be made, or entered into by said corporation, shall be subscribed by the president, or president *pro tempore*, or by such other officer as shall be designated for that purpose by its by-laws, and attested by the secretary; and being so signed and attested, shall be binding and obligatory on the said corporation, without the seal thereof, according to the true intent and meaning thereof; and all such policies or contracts may be entered into and so signed and attested, and the business of the corporation may be carried on without the presence of the board of directors, by the president and secretary, subject nevertheless to the by-laws, rules, ordinances and regulations established by the board of directors. It shall be the duty of the secretary, at every annual election, or other general meeting of the stockholders, to lay before them a correct and particular statement of the condition and affairs of said company.

SEC. 9. That the stock of said company shall be assignable and transferable on the books of the same or otherwise, according to such rules and by-laws, and subject to such restrictions and limitations as may be established by the directors; and all such stock shall be held and considered as personal property.

SEC. 10. That any number of stockholders, who shall at the time be the owners of one-tenth part of the stock sold, shall have power to call a general meeting of the stockholders, by giving two weeks notice in some newspaper printed in said county, of the time and place of such meeting; the stockholders present in person or by proxy, at any such meeting, shall decide all questions proposed for consideration, by a plurality of votes, and may make and prescribe such by-laws, ordinances, rules and regulations, as to them shall appear needful and proper, in relation to the management of the affairs of the company, or for the government and direction of the officers thereof.

SEC. 11. That books for the subscription to the capital stock of said company, shall be opened by and under the direction of William V. Cheek, Isaac Hancock, Ebenezer Dumont, Henry Walker, George W. Lane, Israel C. Curtis, and William Glenn, who are hereby appointed commissioners for that purpose, whose duty it shall be, or any three of them, to give notice of the time and place of opening books for subscription, in a newspaper printed in said county, and it shall be lawful for any individual, company or body corporate, to subscribe for any number of shares, and the individual, company, or body corporate, shall at the time of subscribing, pay to the said commissioners, one dollar on each share so subscribed; and it shall be the duty of said commissioners, as soon as four hundred shares are subscribed, to give two weeks notice in some newspaper printed in said county, of the time and place for the stockholders to meet and elect the first board of nine directors, which election shall in all respects be governed by the provisions of this act for the election of directors, and the board of di-

rectors thus elected, shall constitute the first board, and shall continue in office until the next annual election.

SEC. 12. That as soon as the board of directors are elected as aforesaid, it shall be the duty of the commissioners to pay over to said board of directors, all moneys that may be in their hands belonging to said company, and deliver over to them, all books and papers belonging to the same; and it shall be the duty of the directors, before they proceed to make any policy of insurance, to demand and receive of each stockholder, the full amount of the stock by them respectively subscribed, which payment shall be made either in cash, or secured to be made, by giving real or personal security to the satisfaction of the directors; and if any stockholder shall fail to make such payment, or give such security as aforesaid, within thirty days after the election for directors, such stockholder shall forfeit to the company, the amount paid on such stock at the time of subscribing: *Provided*, that the said corporation shall not commence business, or grant any policies of insurance, until four hundred shares are subscribed and paid for, or secured to be paid as aforesaid, all the remaining balance of the stock shall be offered for sale, at such time and place, and on such terms, as the directors for the time being, may from time to time direct.

SEC. 13. That when said corporation shall have commenced business as aforesaid, and shall grant any policy or policies of insurance, on any kind of property, real or personal, against loss or damage by fire, or any other cause, or risk on any goods, merchandise or produce, whether on the land or on the water, on any vessel or boats whatever, and wherever they may be, on life or lives, or shall lend any money on bottomry or respondentia, or shall become the underwriter of any foreign or domestic bill of exchange, bond, note or obligation, it shall be lawful to charge such rate of premium or interest as may be agreed upon by the parties.

SEC. 14. That whenever any property, real or personal, on which a policy may have been effected, shall be sold during the existence of the policy, it shall be lawful for the vendor or vendors to assign such policy to the vendee or vendees of such property, and such assignee, or assignees shall have the full benefit thereof: *Provided*, That before any loss happens, notice shall be given said company of said assignment: *And provided*, That said company when so notified, shall be at liberty to return a ratable proportion of the premium, and thereupon be exonerated.

SEC. 15. That whenever said corporation shall be notified of any loss, sustained or incurred on any policy of insurance granted or issued by the same, it shall be the duty of said corporation to pay the amount so lost or incurred on such policy, within sixty days after being so notified: *Provided*, There shall have been no violation of the condition of the policy on the part of the insured; and on all judgments obtained by said corporation, there shall be no stay of execution, except on judgments for money loaned, and on discounted promissory notes, upon which said judgment for money loaned, and discounted notes, there shall be allowed the same stay of execution, as is now, or may

hereafter be allowed by law in other cases. The stockholders may, at any regular meeting, either increase or diminish the number of directors: *Provided*, That there never shall be more than thirteen nor less than five.

In all cases of judgments against said corporation, execution shall first issue against the goods and chattels, lands and tenements, of said corporation as their joint property, and upon return being made of no property found, by the officer to whom such execution shall have been directed, it shall be lawful to issue a *scire facias* against any individuals owning stock at the time the debt or liability was created upon which said judgment may have been rendered, and it shall be lawful for such stockholder in answer to said *scire facias*, to deny that he was a stockholder at the time such debt or liability was created; and also to plead that said corporation is not liable, or has paid the same, or any other legal defence.

SEC. 16. The stockholders of said company, may meet either at Wilmington or Aurora, for the purpose of electing their first board of directors above provided for, and said first board of directors, when so elected, shall at their first meeting (which may be held at Wilmington or Aurora,) determine by a viva voce vote, whether the office of the Wilmington or Aurora insurance company shall be located in Wilmington or Aurora, and the determination of said directors as to the location of said office, shall be reduced to writing, signed by the president and attested by the secretary and filed with the clerk of Dearborn county. Said determination shall also be recorded on the journal of said board of directors. Said location of said office may be changed from Wilmington to Aurora, or from Aurora to Wilmington as the case may be, by the vote of a majority of the directors, which relocation shall be certified to the clerk, and recorded as above provided.

SEC. 17. This act to be in force from and after its passage, and shall be deemed and taken to be a public act, and shall be construed favorably for every beneficial purpose, and shall be subject to repeal by a vote of two-thirds of the legislature at any time: *Provided, however*, That if this act be repealed, said company shall have three years from the time of such repeal, to wind up its business.

CHAPTER X.

An Act to incorporate the town of Mount Vernon.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That William E. Stewart, Enoch R. James, Hezekiah Holland, Charles F. Leonard, William J. Lowry, Darius North, and Thomas F. Prosser, be, and they are hereby appointed trustees of the corporation of the town of Mount Vernon, in the county of Posey and state of In-

diana, to serve as such until the second Monday in April, one thousand eight hundred and forty, and until their successors are elected and qualified as hereinafter directed.

SEC. 2. That the said trustees, at their first meeting after the passage of this act, shall elect a president from their own body, whose duty it shall be to preside at all meetings of the board, preserve order, put all questions, and upon an equal division of the board, give the casting vote; and the said trustees shall also at said meeting, appoint all officers necessary to carry into effect the provisions of this act, and make such compensation as to them shall appear reasonable and right.

SEC. 3. That the said president and trustees of said town, and their successors in office, shall be, and the same are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of "The President and Trustees of the town of Mount Vernon," and by that name and style shall be able and capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction; and shall have power to make, use, and have a common seal, and the same to break, alter, amend and renew at pleasure; to ordain, order, establish, and put into execution and effect such by-laws, rules, regulations and ordinances as they shall deem necessary and proper for the benefit and convenience of the citizens of said incorporated town; and shall also have power to adopt and put in force such laws, ordinances, and regulations as they shall deem necessary for the police, good government, and order of said town hereby incorporated, subject, however, to the restriction, limitation, and provisions hereinafter provided, and not inconsistent with the constitution and laws of this state or of the United States.

SEC. 4. That the said president and trustees, or a majority of them shall have power to lay off said town into as many wards as they shall deem necessary, and on the second Monday in April, 1840, and annually thereafter, there shall be an election at the court house, or some convenient place in said town, to be designated by the said president and trustees, to elect, by ballot, seven trustees for said corporation, at which election each white male inhabitant of said town, who shall have the qualifications of a voter for state and county officers, and shall have resided within the bounds of the said corporation, six months next preceding said election, shall be entitled to vote at the same; ten days previous notice of which election shall be given by the president and trustees aforesaid, by publishing the same in some newspaper printed in said town, (if there be one,) otherwise by putting up written notices thereof in three of the most public places in said town, designating the time and place, when and where such elections are to be held.

SEC. 5. The president and trustees at their meeting preceding the annual elections shall appoint an inspector of all elections, whose duty it shall be to attend the same, and call to his assistance, two other qualified voters, who shall be judges of said election, and they shall

appoint two clerks, of the same, all of whom, after taking an oath or affirmation; which oath or affirmation may be administered by said inspector, to said judges and clerks, and by one of said judges to said inspector, faithfully to discharge their respective duties, shall proceed to receive votes between the hours of ten o'clock, A. M., and four o'clock, P. M., on said day. The judges shall determine the legal qualifications of voters, for which purpose the inspector may administer to the voter the necessary oath. If the said inspector shall not be present at the proper time of opening such election, the electors may choose one to act in his place; or, if the electors shall fail to meet, the corporation shall not thereby be dissolved; but the president and trustees then in office, shall continue until others, their successors, shall be elected at an annual meeting of the electors.

SEC. 6. It shall be the duty of the inspector and judges of such election, to certify under their hands and seals the seven persons who receive the highest number of votes, which certificate shall be filed and kept on record by the clerk of the corporation, whose duty it shall be to deliver a copy thereof to each of the seven persons elected; which certificate shall be sufficient authority for such person to take his seat as a trustee. In case there should be a tie between any persons at said elections, the result shall be determined by lot, to be drawn by the judges. The trustees elected as above directed, or a majority of them, shall meet within ten days after such election, and after taking an oath or affirmation, faithfully, diligently, and impartially to discharge their duties as trustees, shall elect one of their body to preside, as in the second section of this act; in case of his absence at any meeting of the board, they shall appoint a president pro tem. No person shall be eligible as a trustee, unless he is a qualified elector, and also a freeholder or householder within the bounds of the corporation. When vacancies happen by death, resignation, refusal to serve, or otherwise, such vacancies shall be filled by appointment of the trustees until the next annual election. A majority of the trustees (including the president,) shall at all times form a quorum; they shall meet on their own adjournment, and appoint their officers as in the second section of this act.

SEC. 7. It shall be the duty of the president to sign all laws, ordinances, and decrees of a public nature; and also to sign the records of all their by-laws, and journals, or minutes of their proceedings; and at the first meeting of the president and trustees, after the taking effect of this act, and after each annual election, or as soon thereafter as may be convenient, they shall proceed to elect or appoint a clerk, a treasurer, and marshal, each of whom shall serve one year, (unless sooner removed,) or until their successors shall be chosen and qualified; and they shall possess the same qualifications as trustees, take a similar oath, and give bond and security, payable to the president and trustees, conditioned for the faithful discharge of their duties respectively; and on failure to perform all or any of the conditions of said bond, they and their securities shall be liable to the suit of the president and trustees aforesaid, who may assign breaches upon the condi-

tions of said bond or other cause, and recover a judgment for any default in the discharge of the duties of such officer, together with full costs, and ten per cent. damages thereon, in any court having jurisdiction of the same, and on which judgment there shall be no stay of execution.

SEC. 8. The president and trustees shall have power to levy and collect annually, of each male inhabitant of the town, who shall be twenty-one years of age and not a pauper, a poll tax not exceeding fifty cents; and on real property a tax not exceeding one per cent. on its valuation exclusive of, or one-third of one per cent. inclusive of improvements, at the discretion of the president and trustees; and may levy a tax on any specific article or articles of personal property, and in addition to the above they may levy a tax on real property not exceeding one half per cent. on its valuation, either including or excluding improvements, at their discretion, for the purpose of purchasing a fire engine.

SEC. 9. The president and trustees shall have power to pass such laws, ordinances and decrees as may be necessary to guard against damage by fire, to organize fire companies and govern the same; to establish and regulate market houses and markets; to establish the grade of streets; to construct docks, piles, basins, and wharves, and to regulate the manner of payment and collection of wharfage; to improve and keep in repair, and remove any obstructions in the streets, alleys, public squares, and commons in said town; to prevent the erection of public nuisances, and to remove the same; to declare what shall be considered a public nuisance; and generally to enforce by proper penalties the observance of all laws and ordinances relative to the police and government of the said incorporated town.

SEC. 10. The president and trustees shall have power to grant a license to persons wishing to exhibit for gain in said town, or within one half mile of the limits thereof, any animal, wax figure, or other natural or artificial curiosity, or any feats of horsemanship, circus riding, tumbling, vaulting, rope or wire dancing, legerdemain, ventriloquism or other amusements, upon their paying to the treasurer of the town a sum of not less than five nor more than twenty dollars for each exhibition of such shows; and if any person shall, without having first obtained such a license from the president and trustees, exhibit any such show or performance for gain as aforesaid, in the town or within one half mile from the limits of the same, such person shall forfeit and pay a penalty of not less than ten nor more than fifty dollars, for any such violation, for the benefit of the town, to be recovered by action of debt.

SEC. 11. The powers of the corporation for the purpose of raising a revenue by taxation, shall extend to the limits of the town plat as the same is recorded in the recorder's office of Posey county; and to the limits of all the additional plats which have or may hereafter be laid off of town lots adjoining thereto; and the said corporation may extend its jurisdiction for the purpose of removing nuisances, and to carry into full and complete effect, its laws and ordinances, one full

half mile beyond the limits aforesaid. All public ground which lies between the plat or plats of said town and the Ohio river, is hereby attached to and made a part of said town, for the purpose of taxation, improvement or otherwise, and shall forever be and remain under the jurisdiction and control of said corporation; and said corporation is hereby authorized and empowered to exercise full and ample jurisdiction over all streets and alleys, and on the landing or margin of the river, and to the very lowest water-mark thereof; to erect a wharf or wharves, and to regulate the same; and, may pass an ordinance requiring all persons selling or retailing foreign merchandize at the landing of said river, to pay to the marshal, for the benefit of said corporation, such sum for such time as they may deem right and proper, and the marshal's receipt therefor shall be sufficient authority for the person procuring the same to vend foreign merchandize accordingly.

SEC. 12. The president and trustees shall, in the month of April in each year, appoint a lister, who shall take an oath of office, and give bond and security to be approved of by the said president and trustees, conditioned for the faithful discharge of his duties as lister; after which he shall proceed forthwith to make a fair list, in alphabetical order, of all persons subject to tax, together with such property as the president and trustees may direct him to list; also of all lots or fractional lots, particularly noting the number and description thereof, the owner's name, if known, and whether resident or non-resident. After having completed such assessment, he shall call to his assistance two freeholders, who, having been sworn faithfully and impartially to value the property so listed, shall, with the lister, proceed to value the same; and such lister shall, on or before the fifteenth day of May next succeeding, make return to the clerk of the corporation of such list and assessment.

SEC. 13. The president and trustees shall, in the month of May in each year, levy a tax on the property so listed and returned by the lister, and appoint a marshal, who shall take an oath and give bond and security, to be approved of by the president and trustees, conditioned that he will faithfully pay over all moneys that may come into his hands as marshal, to the treasurer of the corporation, or to such person as may be authorized to receive the same. Said marshal shall hold his office one year, unless sooner removed.

SEC. 14. The president and trustees shall cause the clerk to make out a fair list of all persons taxable with personal property and with real property, with its valuation, setting forth the owner's name, if known, the amount of tax chargeable to each person, and the amount charged on each article, and shall deliver the same to the marshal on or before the first day of June annually, and certify the amount of tax contained in such list, to the treasurer. Such list, so put into the hands of the marshal, certified by the president, and attested by the clerk, shall be sufficient authority for the Marshal to collect the same.

SEC. 15. It shall be the duty of the marshal to receive the amount of taxes due from each individual on or before the first day of July, in each year, and to account and pay the same over to the treasurer im-

mediately; and in all cases where the taxes assessed are not paid by that time by any individual, it shall be the duty of the marshal to proceed and collect the same, by distress and sale of any of the personal property of such delinquent, subject to execution by the laws of this state, by giving ten days notice of the time and place of such sale, by setting up three advertisements in public places.

SEC. 16. In all cases where the tax due and owing cannot be made of the goods and chattels of such delinquent, it shall be the duty of the marshal to make sale of the lots or fractions of lots belonging to such person, or so much thereof as will pay the tax and costs due thereon, by giving twenty days notice of the time and place of such sale, in some weekly newspaper published in said town, or by posting up five written notices in the most public places in said town; in which notices he shall describe the lot or lots to be sold, by their proper number, or some other certain description, with the owner's name, if known, or the person's name to whom it is supposed to belong, and file one of said advertisements with the clerk of said corporation, to be filed by him among the records of said corporation. The marshal shall, on the day of sale, by proclamation, proceed to sell the lot or lots to the highest bidder, or to the person who will pay the tax and costs due, for the smallest portion of the lot or lots so offered for sale, and shall give to each purchaser a certificate of such purchase, setting forth the quantity sold, the amount paid, including tax and costs, and that said purchaser will be entitled to receive a deed for the same at the end of two years, unless the owner, or some person for him, her, or them, shall redeem the same on or before that time, by paying to said purchaser, his, her, or their heirs, or assigns, the amount of the purchase money, with one hundred per cent thereon, or deposite the amount with the clerk of the corporation.

SEC. 17. In case the owner of any lot or fractional lot, so sold as aforesaid, his, her, or their agent or attorney, shall not pay the amount of the purchase money, with the per centum thereon as aforesaid, within two years from the day of sale thereof, it shall be the duty of the marshal then in office, to make a deed to the purchaser, his, her, or their heirs, or assigns, for such lot or fraction of lot; which deed, acknowledged and recorded according to law, shall vest the right and title to said real estate in the purchaser, his heirs, or assigns, and divest the owner or owners of any title thereto; and the assessment made on such lot or lots shall be a lien on the same in the hands of any person who may purchase the same at private sale; and no conveyance made by the owner of such lot, after the time of such assessment, shall divest the owner of the title to said lot as to interfere with the claim of a purchaser under the provisions of this act: *Provided*, That in all cases where lots are listed and sold, and the owner's name not known, such sale shall be valid and good to the purchaser.

SEC. 18. The marshal may adjourn his sale from day to day, for three days; and if, at the final adjournment of his sale, any lot or lots should remain unsold for the want of buyers, he shall make return thereof, and the amount of tax shall remain as a lien upon such lot or

lots, and shall be added to the next year's assessment, together with one hundred per centum thereon. The marshal shall be allowed fifty cents for each sale and certificate, and the expense of advertising the same.

SEC. 19. It shall be the duty of the marshal to make return of his proceedings and the sales made, to the clerk of the corporation, on or before the first day of September, annually, and pay over to the treasurer all moneys by him collected; at which time he shall furnish a list of delinquents, for which he shall receive a credit, if deemed correct and true.

SEC. 20. All bonds given by the officers of the corporation, and all contracts entered into with the corporation, shall be in the name of "The President and Trustees of the town of Mount Vernon;" and all suits commenced for the benefit of the corporation, or where the corporation shall be defendant, shall be in the name of "The President and Trustees of the town of Mount Vernon," without setting forth the name of any member thereof.

SEC. 21. It shall not be lawful for any person or persons, within the bounds of the corporation, to sell by a quantity less than one quart, any spirituous liquors, foreign or domestic, or keep what is commonly called a tippling house, unless such person or persons shall, in addition to a license obtained from the board of county commissioners, obtain a license from the corporation, which is hereby authorized to grant the same to such applicant for one year or less, on his, her, or their paying into the treasury of the corporation a sum not exceeding fifty, nor less than three dollars, at the discretion of the corporation. And if any person or persons shall sell any spirituous liquors, or keep what is commonly called a tippling house, contrary to the provisions of this act, such person shall forfeit and pay a penalty of not less than ten nor more than one hundred dollars, for the benefit of the town; to be recovered by action of debt.

SEC. 22. And, for the better regulation of said corporation, and for the good order and government of the town, the president and trustees may pass such by-laws and ordinances, regulating their own conduct, and imposing such fines upon members for a breach of any of their rules or regulations, as they may conceive conducive to the public good, and a majority of all the trustees elect may expel a trustee for improper or disorderly conduct; and also pass and adopt laws or ordinances for the suppression and punishment of immoral or indecent conduct, intoxication, rioting, or whatever may detract from the good order of society.

SEC. 23. Whenever the owner of lots on any street or section of a street shall be desirous of making any improvement on the same, by grading, gravelling or paving said street or sidewalks thereof, or any other improvement on said street or sidewalks, two-thirds of the resident owners of lots on said street or section of street, by themselves, their tenants or occupants thereof, representing two-thirds of the whole number of feet on each side of said street or section of street, or two-thirds of the whole number of feet on one side of any sidewalk, and

shall, by petition represent to the president and trustees of said corporation, plainly and distinctly the improvement wanted or contemplated to be made, it shall be the duty of the president and trustees to cause the same to be done in the best and most economical manner, agreeably to the wish of said petitioners; and the expense of such improvement shall be assessed and levied on all the lots fronting on said street or section of street, equal per foot for the distance such improvement may be intended to extend, which assessment and levy, from the time of making the same, shall be and remain a lien upon said lot or lots, until the amount so assessed and levied shall be fully paid and discharged. It shall be the duty of the clerk of the corporation to enter such petition on record with the petitioners' names, the number of feet front owned or represented by each, and shall make out, and deliver to the marshal of the corporation, a list of the owners' names, the number of feet front owned by each individual, the rate of expenses on each lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot, which list, signed by the president and certified by the clerk, shall be sufficient authority for said marshal to proceed and collect the same; and if the owner or occupant of any lot or part of a lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the marshal shall proceed to collect the same by sale of such lot or part of lot, or so much thereof as will pay the amount so levied; and in such sale and conveyance to the purchaser thereof, he shall, in all respects be governed by the sixteenth and seventeenth sections of this act; and the right of redemption shall be the same as is provided in the sixteenth section of this act; and if any such lot or fraction of lot shall not sell for want of buyers, or any other legal cause, the same may be re-offered by such collector, from time to time, until the same shall be sold, adding the costs that may accrue at each time for advertising, &c. And the marshal shall be entitled, in addition to the costs of advertising, to the same fee for such sale as he is allowed in the eighteenth section of this act for making sale and certificate, and for making a deed to any real estate, sold under the provisions of this act, the marshal making the same, shall be allowed one dollar; and twenty-five cents for having the same acknowledged, to be paid by the person receiving said deed.

SEC. 24. The president and trustees shall have, at all times, full power to refund any moneys wrongfully collected as taxes, and to correct any assessment or tax list, by adding thereto or subtracting therefrom, as to them shall seem right.

SEC. 25. No person shall be incompetent to be a witness in suits for the violation of any by-law or ordinance of the president and trustees, because such person is a citizen of the town.

SEC. 26. The clerk shall keep a record of all the by-laws, ordinances and other proceedings of the president and trustees, and a copy thereof, certified by him, under the seal of the town, shall be sufficiently authenticated to be admitted as evidence in any court of this state. He shall also be the keeper of the seal, records, and files of the corpo-

ration. The treasurer shall have the custody of all moneys of the corporation, and pay over the same to the order of the president and trustees; he shall also report to them the condition of the treasury, at their stated meetings in January of every year, and such other times as they may specially direct.

SEC. 27. The president shall have power to issue under the seal of the president and trustees, and the marshal to serve process in any manner relating to any violations of the laws and ordinances of the president and trustees, and to carry the same into as full effect, for any violation thereof, as justices of the peace and constables have now or may hereafter have to carry into effect any process issued by virtue of any law of this state, and shall be entitled to receive, and authorized to demand and collect the same fees that are, or shall be allowed to justices of the peace and constables for performing similar services; and the parties to any suit before the president, shall have the same right to a change of venue, to a trial by jury, and to an appeal, as if the same was pending before a justice of the peace. And the president, when officiating as authorized by this section shall keep a record of his proceedings; which record, or a certified copy thereof, shall, in all respects, have the same effect as the docket of a justice of the peace, and shall be evidence in any court. The marshal shall attend all trials before the president, shall serve all process issued by the president, and his power for this purpose shall be co-extensive with the county of Posey. In case of the absence or inability of the marshal, the president may direct process to some other person, whose authority and duty shall be the same as that of the marshal in like cases. It shall be the duty of the marshal to report to the president all violations and infractions of any of the penal regulations of the corporation which may come to his knowledge, and shall be a peace officer within the town.

SEC. 28. It shall be the duty of the keeper of the jail of Posey county, to receive into his custody any prisoner or prisoners, who may, from time to time be committed to his charge under the authority of said president, and to safely keep every such prisoner, according to the warrant or precept of commitment, until he, she or they shall be discharged by due course of law.

SEC. 29. The times herein before stated when elections shall be held, and certain other acts shall be done, are directory only, (except the time of selling lands for taxes,) and no election or other act shall be void, because the same was not held or done on any particular day.

SEC. 30. All by-laws and ordinances of a public nature, made by the president and trustees, shall be in force as soon as a copy thereof attested by the clerk, shall have been published for ten days in a newspaper of the town or posted for such length of time in three of the most public places.

SEC. 31. The legislature shall have power at any time to alter, amend, or repeal this charter, so as to limit, restrain, or take away the powers and privileges herein granted.

This act shall be a public act, and be judicially noticed and liberally construed by all the courts of this state, and shall take effect and be in force from and after its passage.

CHAPTER XI.

An Act to incorporate the town of Danville, in Hendricks county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That Simon T. Hadley, Henry G. Todd, Henry M. Vories, James M. Gregg, William Miller, Christian C. Nave, Jesse T. Matlock, William M. Harner, and Jeremiah W. Hodson, be, and they are hereby appointed trustees of the town of Danville in the county of Hendricks, to serve as such until the first Monday in January, 1840, and until their successors are elected and qualified as hereinafter directed.

SEC. 2. That the trustees aforesaid at their first meeting under this act, shall elect a president from their own body, whose duty it shall be to preserve order and put all questions before them, and upon an equal division of the board, give the casting vote, and at the close of each meeting shall sign the minutes of the same; and the said trustees shall also, at said first meeting appoint all officers necessary to carry into effect the provisions of this act, and make such compensation to such officers as to the majority of the board may seem reasonable.

SEC. 3. That the said president and trustees of said town of Danville and their successors in office, shall be, and the same are hereby declared a body politic and corporate with perpetual succession, by the name and style of the president and trustees of the town of Danville, and by their corporate name shall be capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction, and shall have power to make and use a common seal, and the same to alter and break at pleasure, to ordain, establish and put into execution and carry into effect such by-laws, rules, ordinances and regulations necessary and proper for the benefit and convenience, and good government and police of said town.

SEC. 4. That the said president and trustees, or a majority of them, shall have power to lay off said town into as many wards as they may deem necessary, and on the first Monday in January, annually, there shall be an election at the court house in said town, to elect by ballot, nine trustees for said corporation, at which election each white male citizen of said town, who shall have the qualification of a voter for state and county purposes, and shall have resided in said town two

months next preceding such election, shall be entitled to vote at such election, ten days notice of such election shall be given by the president and trustees aforesaid, by written notices set up in three of the most public places in said town, designating the time and place of holding such election.

SEC. 5. The president and trustees of said town shall at their meeting preceding each annual election, appoint an inspector of elections, whose duty it shall be to attend all elections for said town, and take to his assistance two qualified voters of said town, who shall be judges of said election, and said inspector and judges shall appoint two clerks of election, all of whom, after being sworn or affirmed faithfully to perform their duties as such, (which oaths or affirmations may be administered by the president of said corporation, or any person authorized to administer oaths) shall proceed to receive the votes between the hours of ten o'clock, A. M. and four o'clock, P. M., on the day of election. *Provided, however,* if the inspector shall fail to attend any election, the electors present may choose one to act in his place: *And provided, also,* that if the electors should fail to attend, or the president and trustees should fail to give notice of any election, the said corporation shall not thereby be dissolved, but the president and trustees then in office, shall continue in office, until successors shall be elected at an annual election for said town.

SEC. 6. It shall be the duty of inspectors and judges of such election to certify under their hands the nine persons who receive the highest number of votes for trustees of said corporation, which certificate shall be filed and recorded by the clerk of said corporation, whose duty it shall be to make out and deliver copies thereof to each of the persons therein named; which certificate shall be sufficient evidences of the election of such trustees. The trustees thus elected, or a majority of them, shall meet within ten days after each election, and after taking an oath or affirmation, faithfully to discharge their duties as such trustees, shall elect one of their body to preside, as provided for in the second section of this act; and in case of absence of the president at any meeting of the board, the trustees present may appoint one of their own body president pro tem. No person shall be eligible as a trustee, unless he be eligible as a voter, also a freeholder or householder in said town. When vacancies happen by death, resignation, removal or otherwise, such vacancies shall be filled by appointment of the trustees, until the next annual election. A majority of the trustees shall at all times form a quorum to do business; they shall meet on their own adjournments, and appoint their officers, as provided in the second section of this act.

SEC. 7. It shall be the duty of the president of the board to sign all laws, and ordinances and decrees of a public nature, and also sign the records of all their by-laws, and journals or minutes of their proceedings, and at the first meeting of the president and trustees, after the taking effect of this act, and after each annual election, as soon as may be convenient, they shall elect or appoint a clerk, a treasurer, and a marshal of said corporation, each of whom shall serve one year,

and until their successors shall be chosen and qualified, and shall possess the qualifications of voters, and take a similar oath with the trustees, give bond and security payable to said president and trustees, conditioned for the faithful discharge of their duties respectively; and on failure to perform all or any of the conditions of said bond, they shall be liable to the suit of the president and trustees aforesaid, on said bond against them and their securities, who may assign breaches upon the condition of said bond, and receive judgment for any default in the discharge of the duties of such officer, together with full costs of suit and ten per cent. damages, if such suit be brought for the non-payment of any sum of money due said corporation, in any court having competent jurisdiction, and on which judgment there shall be no stay of execution.

SEC. 8. The president and trustees shall have power to levy annually, and collect a tax on the real property, not exceeding one half per centum per annum on its valuation, exclusive of its improvements; and on all shows and amusements which may be exhibited for gain, not less than three nor more than twenty-five dollars for each exhibition, and may levy a tax on any specific articles of personal property, and upon retailers of spirituous liquors, and upon venders of merchandise; and in addition to the above, the said president and trustees may levy and collect a poll tax on every actual citizen qualified to vote, not exceeding fifty cents.

SEC. 9. The president and trustees shall have power to pass such laws, and ordinances or decrees as may be necessary to guard against damages by fire, to organize fire companies and govern the same, to regulate the duty and conduct of the citizens of the town in relation thereto, to regulate and govern the markets, to prevent the erection of public nuisances in the town, and remove the same; to sink and keep in repair public wells or other water works; and shall have the sole and exclusive power and authority to keep in repair all necessary streets, alleys, and drains, and to pass regulations necessary for the same, agreeably to the plan of said town, and generally to enforce by proper penalty, the observance of all laws and ordinances relative to the police and government of said town.

SEC. 10. The limits of said town shall for the purposes of taxation and police, extend to and embrace the plat of said town of Danville, including the out-lots with any addition or additions which have been, or may hereafter be made to said plat, as the same is or may hereafter be entered of record, in the recorder's office of said county of Hendricks, and for purposes of police, good government, and for the suppression of gambling, rioting, horse racing, and other immoral and improper conduct, within the limits of said corporation.

SEC. 11. The president and trustees shall in the month of April in each year, appoint an assessor, who shall take an oath of office, after which he shall proceed forthwith to make out a fair list in alphabetical order, of all persons subject to taxation, together with such property as the president and trustees may direct him to list; also of all lots and fractions of lots, particularly noting the number or other description

thereof, the owner's name, if known, and whether resident or non-resident; and after having completed such list, he shall take to his assistance two freeholders, who having taken a like oath or affirmation, as assessor, faithfully to value the real property directed as aforesaid to be assessed, shall with the assessor proceed to value the same, and such assessor shall, on or before the fifteenth day of May next succeeding, make return of such assessment to the clerk of the corporation.

SEC. 12. The president and trustees shall in the month of May in each and every year, levy a tax on the property so assessed and appoint a collector to collect the same, who shall take an oath of office, give bond and security, to be approved by the president and trustees, conditioned that he will faithfully discharge his duty, and pay over to the treasurer of said corporation, all moneys that may come into his hands as such collector, and shall hold his office for one year, unless sooner removed.

SEC. 13. The president and trustees shall cause the clerk to make out a fair copy of such assessment list, setting forth the amount of tax charged on each poll and each item of property, and shall deliver the same to the collector on or before the first day of June, annually, and certify the amount of tax contained in such duplicate to the treasurer, such duplicate so put into the hands of the collector, certified by the president and attested by the clerk, shall be sufficient authority for the collector to collect the taxes charged thereon.

SEC. 14. It shall be the duty of the collector to receive the amount of taxes due from each individual on or before the first day of July in each and every year, and in all cases where the taxes assessed are not paid by that time by any individual, it shall be the duty of the collector to proceed and collect the same by distress and sale of any of the personal property of such delinquent, subject to execution by the laws of this state, by giving ten days notice of the time and place of such sale, by advertisements, set up in three of the most public places in said town.

SEC. 15. In all cases where tax due cannot be made of goods and chattels of such delinquent, it shall be the duty of the collector to levy upon and take lots or fractions of lots, or so much thereof as will pay the taxes of such person (if such person shall own any lots or fractions of lots in said town) and all costs due thereon, by giving twenty days notice of the time and place of such sale by setting up written notices in five of the most public places in said town, in which notices he shall describe the lot or lots to be sold, by their proper number, or some other certain description, with the owner's name, if known, or the person's name to whom it is supposed to belong, and file one of said advertisements with the clerk of said corporation. The collector shall on the day of sale, by proclamation proceed to sell the lot or lots to the highest bidder, or the person who will pay the tax and costs due, for the smallest portion of the lot or lots so offered for sale, and shall give the purchaser a certificate, setting forth the amount paid, including tax and costs; and that such purchaser will be entitled to a deed for the lots purchased, at the end of two years, unless some person shall redeem the same by paying to the purchaser, his heirs or assigns, or to

the clerk of the corporation for his use, the amount of the purchase money, with ten per cent. per annum thereon.

SEC. 16. In case the owner of any lot or fractional lot so sold as aforesaid, shall not pay the amount of the purchase money with the per centum thereon as aforesaid, within two years from the day of sale, it shall be the duty of the collector then in office, to make a deed to the purchaser, his, her, or their heirs or assigns, for such lot or fractional lot, which deed acknowledged and recorded agreeably to law shall vest the title thereto to the purchaser, his, her, or their heirs or assigns, and such tax after the assessment shall be a lien on the owner's real estate in said town; and in all cases where lots are assessed and the owner's name is not known, such sale shall be valid and good to the purchaser.

SEC. 17. The collector may adjourn his sale from day to day, and if at the final adjournment of his sale, any lot or lots should remain unsold for want of buyers, he shall make return thereof, and the amount of taxes and cost shall remain as a lien on such lot or lots, and shall be added to the next year's assessment, together with ten per centum thereon. The collector shall be allowed fifty cents for each sale and certificate and the expense of advertising the same.

SEC. 18. It shall be the duty of the collector to make return of his proceedings and the sales made, to the clerk of the corporation, on or before the first day of October annually, and pay over to the treasurer all moneys by him collected, at which time he shall furnish a list of delinquents, for which he shall receive a credit, if deemed correct and true.

SEC. 19. All bonds given by the officers of the corporation, and all the contracts entered into with the corporation shall be in the name of the president and trustees of the town of Danville, and all suits commenced for the benefit of the corporation, or where the corporation shall be defendant, shall be in the name of the president and trustees of the town of Danville, without setting forth the name of any member thereof.

SEC. 20. It shall not be lawful for any person or persons within the bounds of the corporation to sell any spirituous liquors, foreign or domestic, by less quantity than one quart, except it be for the sick, or keep what is commonly called a tippling house, unless such person or persons shall, in addition to a license obtained from the board of county commissioners, obtain a license from the corporation, who are hereby authorized to grant the same to such applicant for one year or less at one time, on his, her, or their paying into the treasury of the corporation, a sum not less than ten nor more than one hundred dollars, at the discretion of the president and trustees of said town. And if any person or persons shall sell any spirituous liquors, or keep what is commonly called a tippling house, contrary to the provisions of this act, he, she or they, so offending, shall upon conviction thereof, in an action of debt, or on the case, brought by the president or trustees against the offender or offenders, before a justice of the peace or any court having competent jurisdiction, be fined in any sum of money not

more than fifty nor less than five dollars, for each violation of this section, and shall upon conviction thereof by presentment or indictment (in which indictment it shall not be necessary to recite this act) in the circuit court, be fined in any sum not more than one hundred nor less than five dollars, for the use of the county seminary. And for the better regulation of the peace, good order and government of the town, the said president and trustees are hereby authorized to pass and adopt laws or ordinances for the suppression of immorality, intoxication, rioting, or whatever may detract from the peace and good order of society of said town; and for the purpose of carrying into effect the provisions of this act, the president and trustees are hereby authorized to appoint a marshal, who shall within the bounds of said corporation, be a peace officer; and in the service of the process within said corporation, in which the corporation may be a party, the marshal shall have the same authority and be subject to the same responsibility as a constable.

SEC. 21. Whenever the owner of any lot on any street shall be desirous of making any improvement on the same, by grading, graveling, or paving said street or side walk, if two-thirds of the owners of lots on said street or section of street by themselves, their tenants or occupants thereof, representing two-thirds of the whole number of feet, or each number of feet on each side of any street or section of street, or two-thirds of the whole number of feet on one side of any side-walk, shall by petition represent to the president and trustees of said town, plainly and distinctly the improvement wanted or contemplated to be made, it shall be the duty of the president and trustees to cause the same to be done agreeably to the wish of the petitioners; and the expense of such improvement shall be assessed and levied on all the lots fronting on such improvement, equally per foot for the distance such improvement may be intended to extend; which assessment and levy from the time of making the same, shall be and remain a lien upon said lot or lots, until the amount so assessed and levied shall be fully discharged. It shall be the duty of the clerk of the corporation to enter such petition on record with the petitioners' names, the number of feet owned by each individual, and the whole amount assessed on each lot or fraction of lot; which list signed by the president and attested by the clerk, shall be sufficient authority for the collector to collect the same, and if the owner or occupant of any lot or part of lot, shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the collector shall proceed to collect the same by sale of such lot, or part of a lot, or so much thereof as will pay the amount so levied; and in such sale and conveyance to the purchaser thereof, he shall in all respects be governed by the fifteenth and sixteenth sections of this act, and the right of redemption shall be the same as is provided by the sixteenth section of this act; and if any such lot, or fraction of lot, shall not sell for want of buyers, or any other legal cause, the same may be re offered by such collector from time to time, until the same may be sold, adding the costs that may accrue at each time for advertising; and the collector shall be entitled, in addition to the cost of

advertising, to the same fee for such sale as he is allowed in the seventeenth section of this act; the collector for making the deed shall be allowed one dollar for making the same, to be paid by the person receiving the said deed.

SEC. 22. All laws and ordinances adopted or ordained by the president and trustees of said town, shall be consistent with the laws of this state and of the United States, and all such laws and ordinances as are of a public nature, shall be published by setting up written copies thereof, in three of the most public places in the corporation, ten days before the same shall be in force; and it shall be the duty of the president and trustees, in the month of February, annually, to cause a full statement of the receipts and expenditures of the past year to be posted up at the court house door in said town.

SEC. 23. That all resident male citizens living within the corporation of said town, between the ages of twenty one and fifty years, except persons exempted by law or excused by the president and trustees of said town, shall work the streets and alleys of said town two days in each and every year. Each person made liable to work the streets and alleys of said town, by this section, who shall fail to attend in person, or by satisfactory substitute, at the time and place appointed by the marshal, within the corporation aforesaid, with the designated tool or implement, having had three days notice thereof, or having attended, shall spend his time in idleness, or disobey the marshal, who is hereby declared to be supervisor of the streets and alleys of said town, shall forfeit and pay the sum of seventy-five cents for every such delinquency, to be recovered by action of debt in the name of the president and trustees of the town of Danville, before any justice of the peace of the proper county. And it shall be the duty of the said marshal, to report to the president and trustees, all delinquencies arising under the provisions of this section.

SEC. 24. The thirty-fifth section of the act relating to public roads and highways, approved, February 17th, 1838, be and the same is hereby repealed, so far as relates to citizens residing within the corporation of said town.

The Legislature reserves the power to alter and amend this charter at pleasure.

This act to take effect and be in force from and after its passage.

CHAPTER XII.

An Act to incorporate certain turnpike companies therein named.

[APPROVED, JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That Samuel Goodwin, Joseph Goudie, William McCleery, William

Seal, Thomas Milholland, Abraham Boyd, William W. Carson, Jeremiah Woods, and Henry Berry, and their successors in office, duly elected as hereinafter directed, are hereby constituted a body politic and corporate, and by the name and style of "The Franklin Turnpike Company," shall be able and capable in law and equity, to sue and be sued, defend and be defended, answer and be answered unto, in any and all courts whatsoever; to make and use a common seal, and the same to alter or change at pleasure; and shall be able in law, to make contracts and enforce the same, and to make and enforce the necessary by-laws, regulations, and rules, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the state.

SEC. 2. The capital stock of said corporation shall be sixty thousand dollars, divided into shares of fifty dollars each, with power to increase the capital stock, if necessary, to accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree on, and organize said corporation, by electing one of their body President, and after such organization, any five of said body shall be a quorum to do business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary to carry into effect this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers, and all others in their employment; which journal and proceedings shall from time to time, be signed by the president. They may sit on their own adjournments, or on the call of the president; when the president is absent, they may appoint a president, pro tempore. They shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock, at such time and places as they may choose, due notice of which shall be given in some public newspaper in this state; in each of which books the following entry shall be made:

"We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite our names, in such manner and proportions, and at such times, as the president and directors of the Franklin turnpike company may direct. Witness our hands, this day of "

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate body, to subscribe for any amount of the capital stock; and the said corporation may by an agent offer for sale in any other state, any amount of stock, upon such terms and conditions as may be thought advisable, and they shall have power upon their own credit, to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sum of money to be paid at the time of subscribing, not exceeding five dollars on each

share, as they may think proper; but the amount required shall be made known on the notice for opening the books; and any future payments on the stock, shall be under the control of the corporation.

SEC. 7. As soon as one thousand shares are subscribed for, and five dollars paid on each share, it shall be the duty of the corporation to give three weeks notice thereof, in some newspaper in this state; and in such notice, appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of this state, and which election shall be by ballot, and conducted under the superintendence of one inspector and two judges, appointed by the stockholders present; and the persons having the highest number of votes shall be declared duly elected; in all elections, each share, from one to five, shall entitle the holder to one vote, and every additional five shares, one vote only; to be given by the person owning the same, or by one of any partners, or by the husband, father, mother, administrator, or executor, trustee, or guardian, or by the agent of any incorporation; or any person having a right to vote, may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at subsequent elections, to elect one of their body to be president. The president and directors thus elected, shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. All elections after the first, shall be holden on the first Monday of January, annually, under the direction of the stockholders present, of which election notice shall be given; but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; they shall be signed by the president, and countersigned by the clerk. The stock shall be transferred on the books of the corporation only, or by the agent or attorney, or by the administrator, executor, trustee, or guardian; but such stock shall be at all times holden by the corporation for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on a contract made prior to such transfer.

SEC. 11. The corporation shall have power to call for such portions of the stock subscribed, not exceeding twenty-five per cent., every six months, as they may think proper; to be paid at such time and place as they may designate, by giving sixty days notice in some newspaper of this state, or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with two per cent. interest thereon per month; and if the amount cannot be made on execution, or if such delinquent

be out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon; and no such delinquent before the forfeiture of his stock, shall have the right to vote for directors, or receive any dividend on his, her, or their stock, until the corporation be fully satisfied. The corporation shall require of all officers and others in their employ, bonds with security, as they may think proper, for the faithful performance of their respective duties.

SEC. 12. The corporation shall have power, by themselves or agents, to examine, survey, and locate a turnpike road from the public square in the town of Brookville, Franklin county, Indiana, to the state line dividing Ohio and Indiana, in the direction of Cincinnati, to meet and intersect the Brookville branch of the Colerain, Oxford, and Brookville turnpike; and the said corporation shall have power to locate said road upon the most eligible and suitable ground, with full power to diverge from a direct line between the points named, where more favorable ground can be had for the construction of said road; the same to be not more than one hundred feet in width.

SEC. 13. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any lands to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road and branches, but no stone, gravel, or other material, shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be ascertained.

SEC. 14. It shall be lawful for the corporation, either before or after the location of said road, to obtain from any person or persons through whose land the same may pass, a relinquishment of so much of said land as may be necessary for the construction of said road, as also the stone, gravel, timber, and other materials, that may be obtained upon said routes, and may contract for stone, gravel, timber, and other materials, that may be obtained from any lands near thereto; to receive by donations, gifts, grants, or bequests, lands, money, labor, property, stone, gravel, wood, or other materials, for the benefit of said corporation; and all such contracts, relinquishments, and donations, gifts, grants, or bequests, made and entered into in writing by any person or persons able in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory; and the corporation may and shall have their action at law, in any court of competent jurisdiction, to compel a compliance thereto: *Provided*, That all such contracts, relinquishments, donations, grants, gifts, &c., shall be made in writing by the party making the same.

SEC. 15. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such circumstance may occur, and such justice shall thereupon,

summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall summon a jury of twelve disinterested men, or a less number if agreed to by the parties, who shall, after taking an oath faithfully and impartially to assess the damage, if any, view the lands or materials; and after taking into consideration the advantages as well as disadvantages the road may be to the same, report thereon, whether such person is entitled to damages or not, and if so, how much, and shall file such report with the justice; whereupon, such justice shall enter judgment thereon, unless for good cause shown, and in case either party shall show sufficient cause why judgment shall not be entered, the justice may grant a review of the premises, either with or without costs; *Provided*, Either party may, at any time after the rendition of such judgment, appeal to the circuit court, as in other cases; and such court may confirm the judgment of such justice, or appoint reviewers as above directed, who may report at that or the succeeding term, in the discretion of the court; and the judgment of the circuit court shall be final when rendered: *Provided*, That no person, who has petitioned the Legislature for this charter, shall be entitled to damages for the right of way for said road.

SEC. 16. And in all cases, where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such land may be, such justice shall cause three notices of the application made, and of the day fixed for the appointment of viewers, to be posted up in three of the most public places in the county, and if no person shall appear on the day named in such notices, he shall proceed as if such person or persons had been duly notified to attend, and on such judgment being rendered, and the corporation complying therewith by the payment of costs and damages that may be awarded against them, shall be seized of the lands or materials, costs shall be allowed or awarded against either party, at the discretion of the justice.

SEC. 17. If it shall be found necessary, the corporation shall have the right to lay said road along and upon any state or county road; *Provided, however*, Before such location shall be made, the corporation shall procure the consent of the county commissioners in their respective counties, through which the same may run, for such right, and the said county commissioners are hereby vested with power to grant or refuse to said corporation such right and shall enter the same on the records of said county or counties as the case may be: *Provided*, That nothing herein contained, shall be so construed as to prevent said road from crossing any state or county road.

SEC. 18. That when said corporation shall have procured the right of way, as herein provided, they shall be seized in fee simple of the right to such land, and shall have the sole, use and occupancy of the same, for the purposes aforesaid, and no person, body corporate or politic, shall in any way interfere with, molest, injure or disturb any of the rights and privileges hereby granted.

SEC. 19. The corporation shall commence the construction of said road within three years, and complete the same within ten years

from the commencement: *Provided, however*, That if ten miles of said road shall be completed within the time aforesaid, the charter shall not be forfeited, as to that part of said road so completed.

SEC. 20. The corporation shall cause said road to be opened, not exceeding one hundred feet wide, at least twenty feet of which shall be an artificial road, composed of stone, gravel, or other suitable materials, well compacted together in such manner, as to secure a firm and even road, rising in the middle with a gradual curve, and shall maintain and keep the same in good repair, and in no case, shall the ascent in the road be greater than an elevation of five degrees.

SEC. 21. If said road, after the completion thereof, shall be suffered to go to decay, or impassible for one year, unless when the same is repairing, this charter shall be considered as forfeited.

SEC. 22. So soon as the said corporation shall have completed the said road as aforesaid, or any ten continuous miles thereof agreeably to the provisions of this act, they may then erect a gate or gates at suitable distances apart, not less than ten miles, and demand and receive of persons travelling said road, the tolls allowed by this act: *Provided*, That said corporation may erect five miles apart, and demand and receive at any such gate or gates, one half the toll allowed for ten miles.

SEC. 23. The following shall be the rate of tolls for each and every ten miles of said road, and in the same proportion for a greater or less distance, to-wit: for every four wheeled carriage, wagon, or other vehicle, drawn by one horse or other animal, a sum not exceeding eighteen and three quarter cents; for every horse or other animal in addition, six and a quarter cents; for every cart, chaise, or other two wheel carriage or vehicle, drawn by one horse or other animal, not exceeding twelve and a half cents; for every sled or sleigh, drawn by one horse or other animal, six and a quarter cents; for every horse or other animal in addition, six and a quarter cents; for every coach, chariot, or other four wheel pleasure carriage, drawn by one horse, not exceeding eighteen and three quarter cents; for every additional horse or other animal, six and a quarter cents; for every horse and rider, not exceeding six and a quarter cents; for every horse, mule, or ass, six months old or upwards, led or driven, not exceeding three cents; for every head of neat cattle, six months old or upwards, one cent; each hog or sheep, a half cent each; *Provided*, That all persons going to, or returning from public worship, and militia-men going to, and returning from musters, and all funeral processions, shall pass said road free of toll.

SEC. 24. If any persons using said road, shall, with intent to defraud said company, or to evade the payment of toll, pass through any private gate or bars, or along any other ground near to any turnpike gate, which shall be enclosed pursuant to this act, or shall practice any fraudulent means, with intent to evade or lessen the payment of such tolls, or if any person shall take another off said road with intent to defraud said corporation, each and every person concerned in such fraudulent practice, shall for such offence, forfeit and pay to

the corporation, the sum of five dollars, without any stay of execution, to be recovered with costs of suit, in an action of debt, at the suit of the corporation, before any justice of the peace of the county: *Provided*, That nothing in this act shall be so construed, as to prevent persons residing on said road, from passing thereon about their premises, for common and ordinary business.

SEC. 25. If said corporation shall fail for ten days in succession to keep said road in repair, and complaint be made thereof to a justice of the peace of said county, it shall be his duty forthwith, to summon three disinterested judicious freeholders to examine the same, and he shall give notice to the toll gatherer at the nearest gate, of the time when said freeholders will proceed to examine that part of the road complained of; and the said freeholders after having taken an oath, faithfully and impartially to act, shall proceed in the examination; and if they find the same out of repair, they shall certify it to a justice of the peace, who shall immediately transmit a copy of such certificate to the nearest toll gatherer, where such defective part of the road lies; and from the time of receiving such notice, no toll shall be demanded or received for such part of the road, until the same be put in complete repair, under the penalty of five dollars, for every such offence, to be recovered of said corporation, with costs of suit, and for the use of the party aggrieved.

SEC. 26. If any person shall voluntarily or wilfully destroy or in any manner injure or obstruct any part of said road, or any gate thereon, otherwise than in the just and lawful use thereof, every such person shall on conviction thereof, before a justice of the peace of the county, be liable to a fine not more than fifty, nor less than five dollars for every such offence, to be recovered by an action of debt at the suit of the State of Indiana, to go to the common school fund, in the county where the injury may have been committed; and such offenders shall moreover be liable for all such damages to the corporation, or for injury accruing to travellers, in consequence of any such unlawful damage to, or obstruction of said road, all damages and costs under this section, shall enure to the parties entitled to the same, and shall be collected by execution, without any delay or stay of execution before any court having competent jurisdiction thereof.

SEC. 27. The company shall put up a post or stone at the end of each mile, with the number of miles from either extremity fairly cut or painted thereon, and also in a conspicuous place near each gate, shall be placed a board with the rates of toll fairly painted thereon, and such other matter in relation to the direction as may be necessary.

SEC. 28. Any person wilfully destroying, defacing, or removing any guide-board, mile-post, or stone, or list of rates of toll erected on said road, shall, on conviction thereof before a justice of the peace, forfeit and pay a sum not exceeding ten dollars, to be recovered with costs of suit in an action on the case, at the suit and for the use of the corporation.

SEC. 29. If any toll gatherer on said road shall unreasonably detain any passenger after the toll has been paid or tendered, or shall

demand or receive greater toll than is by this act allowed, he shall for every such offence, forfeit and pay a sum not exceeding ten dollars, to be recovered with costs of suit, before any justice of the peace having competent jurisdiction, at the suit of the party injured: *Provided*, that no suit or action shall be brought against any person or persons, for any penalty incurred under this section, unless such suit or action shall be commenced within thirty days from the time of incurring the same; and the defendant or defendants in such action, may plead the general issue, and give this act in evidence, with any other special matter.

SEC. 30. The corporation shall cause to be kept a fair account of the whole expense of making, and repairing said road, with all incidental expenses; and also a fair account of the toll received; and the state shall have the right to purchase the stock of said company, at any time after twenty years, on paying said corporation a sum of money, which, together with the toll received shall equal the cost and expense of said turnpike road as aforesaid, with an interest of twelve per cent. per annum; and the books of the corporation shall always be open for the inspection of any agent of the state, appointed for that purpose by the legislature; and if the corporation shall neglect or refuse to exhibit, at any time, their accounts, agreeably to this section, when thereto required, then all the rights and privileges granted by this act, shall cease and be at an end.

SEC. 31. The said corporation shall be, and they are hereby authorized and empowered to demand and receive the same toll, and proceed in the same manner to collect the same, from the driver, owner or owners of any stage, carriage, or sleigh, in which shall be conveyed the mail of the United States, as they have by this act a right to do, from the driver of similar carriages and sleighs, drawn by the same number of horses, in which no mail is carried, any law to the contrary notwithstanding: *Provided*, that nothing herein contained shall be so construed as to empower said corporation, their agent or agents, to stop or detain any person, carriage, sleigh, or horse, whilst actually employed in the conveyance of said mail.

SEC. 32. It shall be lawful for the county commissioners of Franklin county, for and in behalf of said county, to authorize by an order, as much of the stock to be taken as they may think proper.

SEC. 33. This charter is hereby limited to fifty years in its duration.

SEC. 34. That the full right and privilege is hereby reserved to the citizens of this state, or any company hereafter to be incorporated, under the authority of this state, to connect with the road hereby provided for, any road leading to or from the main route, to any part or parts of the state, or of crossing said road, by any county, state or other road.

SEC. 35. *And be it further enacted*, That John Godey, Warren Tebbs, John Snyder, William Purcell, of Dearborn county, and Joseph Sizelove, John P. Case, Joseph Bennett, Bradbury Cotrell, Enoch M'Carty, William Butler, Richard Tyner and Thomas Purcell

of Franklin county, and their successors in office duly elected, as is provided in the foregoing sections, for the Franklin turnpike company, are hereby created a body politic and corporate in the name and style of the Brookville and Harrison turnpike company, with a capital stock of eighty thousand dollars in shares of fifty dollars each, with power to increase the capital stock to an amount sufficient to complete the road from Brookville to Harrison, and shall have power to locate and construct a turnpike road from Harrison, in the county of Dearborn, through Rochester and Trenton to the public square in the town of Brookville, in the county of Franklin; and said Brookville and Harrison turnpike company shall have all the same powers and privileges hereinbefore granted to the Franklin turnpike company, and shall, in the exercise of their powers and privileges in the transacting of any and all of their business relating to the road in this section authorized, be governed in all things, as is provided in the foregoing sections creating the Franklin turnpike company: *Provided*, that the grade of said road shall not in any place exceed an elevation of four degrees.

SEC. 36. *And be it further enacted*, That Meredith Helm, Daniel Hawkins, George Frybarger, Robert Griffis, John Stoops, Jesse Shaw, Wm. P. Barton, N. R. Taylor, John Allen, David Slaughter, Richard Chambers, James Blackledge, Samuel Gorden, and their successors in office duly elected as herein before provided for the Franklin turnpike company, are hereby created a body politic and corporate in the name and style of the Brookville and Connersville turnpike company; with a capital stock of sixty thousand dollars in shares of fifty dollars each, with power to increase the capital stock to any amount sufficient to complete the turnpike road from Brookville to Connersville, and shall have power to locate and construct a turnpike road from the public square in the town of Brookville, in the county of Franklin, through Blooming Grove in the said county of Franklin, and through West Union, in the county of Fayette, to the public square in the town of Connersville in the aforesaid county of Fayette; and said Brookville and Connersville turnpike company shall have all the same powers and privileges heretofore granted to the Franklin turnpike company; and shall in the exercise of their powers and privileges, and in the transaction of any and all their business, relating to the road, in this section authorized, be governed in all things as is provided in the foregoing section creating the Franklin turnpike company: *Provided*, that the grade of said road shall not at any place exceed a greater elevation than four degrees, and said road shall not be opened to a greater width than eighty feet.

SEC. 37. *And be it further enacted*, That the county commissioners of the counties of Franklin and Fayette, be and they are hereby authorized, if in their opinion they think it expedient, to subscribe stock to the Brookville and Connersville turnpike company. And that the county commissioners of the counties of Dearborn, Franklin and Fayette, may subscribe stock in the Harrison, Harrison and Brookville, and Brookville and Connersville turnpike companies, heren incorporated.

SEC. 38. *And be it further enacted*, That Newton Claypool, John

Allen, Henry Goodlander, George Fryburger, Meredith Helm, Benjamin Johns, Abel Wilson, Daniel Hankins, Nimrod Ferguson, Benjamin Beason, Seth Williams, Charles H. Moore, Ira Larkey, Abraham G. Hannah, and their successors in office duly elected, as is provided in the foregoing sections to incorporate the Franklin turnpike company, are hereby constituted a body politic and corporate, in the name and style of the Connersville and Cambridge turnpike company, with a capital stock of fifty thousand dollars, in shares of fifty dollars each, with power to increase the capital stock to an amount sufficient to complete the turnpike road from the public square in Connersville to Cambridge, and shall have power to locate and construct a turnpike road from the public square in Connersville, in the county of Fayette, through Milton to Cambridge city, in the county of Wayne; and said Connersville and Cambridge turnpike company, shall have the same powers and privileges hereinbefore granted to the Franklin turnpike company, and shall, in the exercise of their powers and privileges, and in the transacting of any and all of their business relating to the road in this section authorized, be governed in all things as is provided in the foregoing sections creating the Franklin turnpike company:—*Provided*, That the grade of said road shall not in any place exceed a greater elevation than four degrees, and that said road shall not be opened to a greater width than eighty feet.

SEC. 39. *And be it further enacted*, That the county commissioners of the counties of Wayne and Fayette, may, if they think it best, subscribe stock to the said Connersville and Cambridge turnpike company.

SEC. 40. *And be it further enacted*, That Thomas Marks, James M. Conner, Wiley J. Daniels, Adam Spivy, Elias B. Stone, Limri Utter, John Conner, John Jamison, George Winchell, Conrad Saylor, John Grigg, John W. Barker, John Magee, Peter Loary, and their successors in office, duly elected as hereinbefore provided for the Franklin turnpike company, are hereby constituted a body politic and corporate, in the name and style of the Rushville and West Union turnpike company, with a capital stock of eighty thousand dollars, in shares of fifty dollars each, with power to increase the capital stock to an amount sufficient to complete the turnpike road herein provided, from Rushville to West Union, and shall have power to locate and construct a turnpike road from West Union, in Fayette county, to the public square in Rushville, in Rush county, through Berlin and Fayetteville, in said county of Fayette; and said Rushville and West Union turnpike company, shall have all the same powers and privileges hereinbefore granted to the Franklin turnpike company, and shall, in the exercise of their powers and privileges, and in the transacting of any and all of their business relating to the road in this section authorized, be governed in all things as is provided in the foregoing sections, creating the Franklin turnpike company. *Provided*, That the grade of said road shall not in any place exceed a greater elevation than four degrees, and that said road shall not be opened to a greater width than eighty feet.

SEC. 41. *And be it further enacted*, That said Rushville and West Union turnpike company, is hereby privileged to organize said company, and to commence the road within five years, and complete the same within ten years, after the passage of this act.

SEC. 42. *And it is hereby further provided*, That the county commissioners of the county of Fayette, and of the county of Rush, if they in their opinion think best, may subscribe stock to the said Rushville and West Union road.

SEC. 43. *And it is hereby provided*, That that part of the charter granted to the Rushville and West Union turnpike company, shall not be valid or operative on that part of the Rushville and West Union turnpike road, which lays west of Fayetteville, until the charter granted to the Franklin, Fayette, and Rushville turnpike company, approved Feb. 8, 1836, be surrendered, or their privileges expire.

SEC. 44. The charters of incorporation hereby granted, may at any time be repealed by a vote of two-thirds of the Legislature. *Provided, however*, if any of them should be so repealed, they shall each have three years to close their business.

SEC. 45. This act to be in force from and after its publication, and it shall be taken and considered a public act in all courts of record within this state, also in courts of justices of the peace, and shall be beneficially construed in each of the corporate companies created by this act.

CHAPTER XIII.

An Act to incorporate the Bartholomew county Seminary.

[APPROVED, FEBRUARY 11, 1839.]

SEC 1. *Be it enacted by the General Assembly of the State of Indiana*, That John P. Blum, Jacob Pence, James Hamner, John F. Jones, John S. Baxter, Samuel B. M'Keehan, and Tunis Quick, and their successors in office, are hereby constituted a body politic and corporate by the name and style of the board of trustees of the Bartholomew county Seminary, and by that name have perpetual succession, and have full power to sue and be sued, to plead and be impleaded, to answer and be answered unto, to contract and be contracted with; to receive by subscription, gift, donation, grant, deed, or bequest any real or personal estate for the sole use and benefit of said seminary; to convey real estate; to elect all officers, instructors, or agents, necessary for said institution; to make and ordain such regulations and by-laws for the government of said institution as they may deem necessary, not contrary to the constitution

and laws of the United States or of the state of Indiana; they shall also fix the salaries of instructors, and all other officers or agents necessary to carry out the provisions of this act.

SEC. 2. The said trustees, or a majority of them, shall meet in the town of Columbus, at some suitable place, on the the first Saturday in June, or as soon thereafter as may be convenient for them, and after taking an oath or affirmation to faithfully perform the duties of their office, shall proceed to elect from their body a president and secretary, to serve for one year or until their successors are duly elected; and also to elect a treasurer who shall not be a member of the board to serve during the pleasure of said board.

SEC. 3. The treasurer so elected, before entering upon a discharge of the duties of his office, shall take an oath or affirmation, and give bond with approved security, payable to the said board or their successors in office, in a penal sum of double the amount of funds that will probably be in his hands at any one time during his continuance in office, for the faithful performance of the duties thereof.

SEC. 4. The trustees shall purchase a suitable book or books, in which the secretary shall keep a record of all their proceedings; and the proceedings of each day of the session of said board, shall be signed by the president and secretary; and should the president or secretary be absent at any meeting of the board, the members present may elect one *pro tem*.

SEC. 5. All moneys paid out by the treasurer shall be on the order of the board, attested by the secretary.

SEC. 6. It shall be the duty of the board of trustees, as soon after their organization as practicable, to proceed into a thorough examination of the state of the seminary funds of said county, and in furtherance of this object, they are hereby authorized and empowered to examine, in person or by their authorized agent, all the records of said county, and of the circuit court of said county, and should the clerk of said county or circuit court, refuse to let, or in any way try to prevent such examination, he shall for every such offence subject himself to a fine of not less than fifty nor more than one hundred dollars, to be recovered before any court of competent jurisdiction in said county, at the suit of said trustees, for the use of said seminary; and they shall demand and receive from all officers or persons in whose hands there may or shall be any of the funds of said seminary, all such funds, which, when received, shall be paid over to the treasurer, who shall receipt therefor; and should any person or officer in whose hands any of the funds of said seminary shall be found, refuse or neglect to pay over to said trustees, or their said authorized agent, such funds, the said trustees shall immediately proceed to collect the same before any court of said county having competent jurisdiction, and shall recover, without stay of execution of such persons or their securities, the principal with six per cent. interest from the time the same should have been paid, with ten per cent. damages.

SEC. 7. The board of trustees shall make out and present to the board doing county business in said county, at the May term of said board in the year 1840, and annually thereafter, a detailed statement of

the amount of funds and condition of said institution, which statement shall be filed in the clerk's office of said county board.

SEC. 8. The board of trustees shall take charge of the ground and building, and all the property and papers belonging to said seminary, and shall from time to time, as they may have the means, and as the necessities of the institution may require, make such addition or additions to the present edifice, or in the erection of any new edifice as they may see proper, having an eye to its being made a permanent literary academy.

SEC. 9. All moneys accumulating in the hands of the treasurer, not necessary to be expended in the improvement of the seminary building or lot, shall be loaned out by the trustees at ten per cent. interest, on good and sufficient freehold security, and the same shall form a permanent fund for the payment of teachers in said seminary, so that tuition may be furnished free of charge, or as near so as the funds of the institution will justify: *Provided, however*, that the interest only of such fund shall be paid for tuition.

SEC. 10. Each township in said county shall have a right to an equal number of scholars in said institution in proportion to the taxable polls in the same, but should any township neglect to send its said proportion, then, and in that case the deficiency may be made up by any of the other townships.

SEC. 11. The trustees shall as soon as practicable, constitute and have taught a female department in said seminary, to be subject to the same regulations and taught on the same terms as the male department.

SEC. 12. The trustees appointed by this act shall hold their office for three years, and until their successors are duly elected and sworn into office.

SEC. 13. The board doing the county business of Bartholomew county, shall at the January or any succeeding term of said board, in the year 1842, proceed to elect seven seminary trustees, who shall be qualified in the same manner that the trustees appointed by this act are required to be qualified, and receive from their predecessors all the books, papers, money, and property belonging to said seminary, and discharge all the duties required to be discharged by such trustees, and shall hold their office for three years and until their successors are in like manner elected by the county board, and should any vacancy occur in the board of seminary trustees, by death, or resignation, such vacancy shall be filled by the board doing county business; and the county board shall make such compensation to the board of trustees of the county seminary as may to them appear reasonable to be paid out of the county treasury.

SEC. 14. This act may be repealed, altered or amended at any time, two thirds of the legislature therein concurring.

SEC. 15. All laws and parts of laws contravening any of the provisions of this act, be, and the same are hereby repealed.

This act to take effect from and after its passage.

CHAPTER XIV.

An Act to incorporate the Indianapolis, Rushville, and Brookville Turnpike Company.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That James Conwell, Andrew S. Babbit, Orvill Gordon, James Blackledge, and Isaac Clemens of Franklin county, and Job Pugh, Joseph Nicholas, Alfred Posey, William H. Martin, George Guffin, William C. Robinson, Alexander W. Woods, Archibald Kennedy and Levin Birt of Rush county, and George Morrison and Augustus C. Handy of Shelby county, and George Leachman, William Murnan, Jonathan Evans and John Obrien of Hancock county, and Elias Shymer of Marion county, and their successors in office duly elected as hereinafter directed, are hereby constituted and appointed a body corporate and politic, and by the name and style of "the president and directors of the Indianapolis, Rushville, and Brookville Turnpike Company," shall be able and capable in law and equity to defend and be defended, answer and be answered unto in any and all courts of justice whatever; to make and use a common seal, the same to alter and change at pleasure, and shall be able and capable in law to make contracts and enforce the same, and to make and enforce the necessary by-laws, rules and regulations to enable them to carry into effect the provisions of this act and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be one hundred and fifty thousand dollars, divided into shares of fifty dollars each, with powers to increase the capital stock, if necessary, to accomplish the objects herein contemplated.

SEC. 3. The directors in this act named, or any nine of them shall meet at such time and place as they may agree on, and organize said corporation by electing one of their own body president, and after such organization, any seven of said board shall be a quorum to do business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers necessary to carry into effect this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws, rules and regulations, and all orders for the payment of such allowances as may be made to their officers and all others in their employment, which journal shall from time to time be read, corrected and signed by the president. They may sit on their own adjournments, or on the call of the president. When the president is absent they may appoint a president pro tempore; they shall fill all vacancies that may happen in their own body; said persons so appointed, to hold their offices till the next annual election.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock at such time and place or places as they

may choose, due notice of which shall be given in some newspaper in this state; in each of which books the following entry shall be made: We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite our names, in such manner and proportions and at such times as the president and directors of the Indianapolis, Rushville, and Brookville Turnpike Company may direct. Witness our hands and seals this day of

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate body, to subscribe for any amount of capital stock, and the county commissioners of each county through which the road may run, are authorized and required by their agent to subscribe for at least ten shares of said stock; and the said corporation may by an agent, offer for sale in any other state, any amount of stock upon such terms and conditions as may be thought advisable; and they shall have power on their own credit to borrow money on such terms as may be agreed on by the parties.

SEC. 7. As soon as two hundred shares are subscribed for, and two dollars paid on each share, it shall be the duty of the corporation to give three week's notice at least thereof, in the newspapers printed in the counties through which said road will run, and in such notice appoint a time and place for the stockholders to meet and elect nine directors, who shall be stockholders and citizens of this state, and which election shall be conducted under the superintendence of one inspector and two judges, appointed by the stockholders present; and the persons having the highest number of votes shall be declared duly elected. (No share shall confer a right to vote at any election, unless the same shall have been held one month previous to the election.) In all elections each share shall entitle the holder to one vote only, to be given by the person owning or by one of any partners, or by husband, father, mother, administrator, or executor, or trustee, or guardian, or the agent of any corporation; any person having the right to vote, may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as may be convenient, and elect one of their body to be president. The president and directors thus elected shall continue in office until their successors are elected and qualified.

SEC. 9. All elections after the first, shall be held on the first Saturday of September annually, the directors acting as judges of said election; of which election notice shall be given stockholders by the board of directors; but should no election be held on the day appointed by this act, or by the directors for the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of stock held; they shall be signed by the president and countersigned by the clerk, and made assignable by endorsement; but such stock shall be and remain liable to the corporation for any dues from the original holder, and until the transfer is entered on the corporation books, which shall not be done while their

remains any thing due the corporation on such stock. The transfer may be made by any lawful agent or attorney, executor, administrator, or guardian.

SEC. 11. The corporation shall have power to call for such portions of the stock subscribed, not exceeding ten per centum every six months, as they may think proper, to be paid at such time and place within either of the counties through which said road may pass, as they may designate, by giving thirty days' notice in some newspaper in the vicinity, and by giving ten days' written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder shall neglect or refuse to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with five per centum interest thereon per month until paid; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books declare such stock forfeited to the corporation, with whatever amount may have been paid thereon; and no such delinquent before the forfeiture of his stock, shall have the right to vote for directors or receive any dividend on his or her stock until the corporation is fully satisfied. The corporation shall require from all officers and others in their employ, bonds with security, as they may think proper, for the faithful performance of their respective duties.

SEC. 12. The corporation by their agents shall have power from time to time to examine, survey, mark, and locate the road for a turnpike, to be constructed from the town of Brookville in Franklin county to Rushville in Rush county, and thence via Burlington and Morristown, to Indianapolis in Marion county, on the most eligible and suitable ground, commencing at the town of Brookville, with full power to diverge from a direct line between the points named, where more favorable ground can be had for the construction of said road; the same not to be more than sixty-five feet in width. It is further provided, that said road shall be divided into four sections, as follows, to-wit: All that part of said road between Brookville and a point where said road will last touch the White-water canal shall be taken and considered the first section; and all that part between Rushville and the above named point on the White-water canal, shall be taken and considered as the second section of said road; and [all that part of said road] between Rushville and Morristown, shall be taken and considered as the third section; and the balance of said road to Indianapolis, (or to the National road, as may be agreed on as the terminating point,) shall be taken and considered as the fourth section of said road; and said corporation shall have full power and authority to open books for the subscription of stock for the entire construction of said road its whole length; or the said corporation may open books for subscription of stock, to be subscribed for the constructing and completing of any divisional section as the corporation may deem most advisable under the regulations and provisions of this act.

SEC. 13. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for timber, stone, gravel, or other materials necessary for the construction of said road; but no wood, gravel, stone, or other material shall be taken away from any land without the knowledge or consent of the owner thereof, until the rate of compensation shall be ascertained and paid: *Provided*, said corporation shall not be allowed to enter the *enclosed* lands of any person for the purpose of taking away timber without the consent of the owner or owners thereof.

SEC. 14. It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose land the same may pass a relinquishment of so much of said land as may be necessary for the construction of said road, as also the stone, gravel, timber, and other materials that may be obtained on said route; and may contract for stone, gravel, timber, and other materials that may be obtained from lands near thereto; to receive by donations, gifts, grants, or bequests, land, money, labor, property, stone, gravel, wood, or other materials for the benefit of said corporation; and all such contracts, relinquishments and donations, gifts, grants, or bequests, made and entered into in writing by any person or persons able in law to contract, made in consideration of such location and for the benefit of the corporation, shall be binding and obligatory; and the corporation shall and may have their action at law in any court of competent jurisdiction to compel a compliance thereto.

SEC. 15. The said corporation shall have power and authority to construct a bridge or bridges across the White-water canal, if necessary, so as not to obstruct or interfere with the ordinary use or construction of the canal.

SEC. 16. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county, where such circumstance may occur or exist, and such justice shall thereupon summon the owner of the land to appear before him on a particular day within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall after taking an oath faithfully and impartially to assess the damages, if any, view the lands or materials, and after having taken into consideration the advantages as well as disadvantages the road may be to the same, report thereon whether such person be entitled to damages or not; and if so, how much, and shall file such report with the said justice of the peace; whereupon said justice shall enter judgment thereon unless for good cause shown; and in case either party show sufficient cause why judgment shall not be entered, the justice may grant a review of the premises either with or without costs: *Provided*, either party may at any time after the rendition of judgment, appeal to the circuit court of the proper county, as in other cases; and such court shall appoint

reviewers as above directed, who shall report at that or at the succeeding term of the circuit court, in the discretion of the court, and the judgment of the circuit court shall be final when rendered.

SEC. 17. If it shall be found necessary to the construction and location of said road the corporation shall have the right to lay the same along and upon any state or county road: *Provided*, that all the state and county roads crossing said turnpike shall be left open and free.

SEC. 18. That when said corporation shall have procured the right of way as herein provided, they shall be seized in fee simple of the right to such land, and shall have the sole use and occupancy of the same for the purposes aforesaid; and no person, body politic or corporate shall in any way interfere with, molest, injure, or disturb any of the rights and privileges herein granted.

SEC. 19. The corporation shall commence the construction of said road within five years, and complete the same within fifteen years from its commencement: *Provided*, however, that if any one of the sections of said road shall be completed within the time aforesaid, the charter shall not be forfeited as to that part of said road so completed although the residue of said road may not have been completed within the time aforesaid.

SEC. 20. The corporation shall cause said road to be opened not exceeding sixty-five feet wide, and at least eighteen feet shall be made an artificial road, rising in the middle with a gradual curve; the convex of said road to be composed of gravel, sand, rock, wood, or other suitable materials, well compacted together in such manner as to secure a firm, substantial, and even road, and shall maintain and keep the same in good repair; and in no case shall the ascent be more than an elevation of four degrees.

SEC. 21. That when said road, or any particular section thereof, shall be located, it shall be the duty of said corporation to cause a plat or plats thereof to be deposited in the office of the secretary of state, and after that time it shall not be lawful for said corporation to alter or change any part thereof, unless said corporation pay the owner or owners of land on said route, the amount of damage they may sustain by such change.

SEC. 22. That if said road after its completion, or any section thereof, shall be suffered to go into decay, or be impassable for one year, unless when the same is repairing, this charter shall be considered as forfeited.

SEC. 23. So soon as the said corporation shall have completed the road as aforesaid, or any section as aforesaid, or ten miles of any section of the road as named in this act, and so, from time to time, as often as any continuous ten miles of said road shall be completed, an agent shall be appointed by the governor, (on the application of the corporation,) who shall examine the same, and report his opinion in writing to the corporation, and if the report shall state the road, or any ten continuous miles of the same, to be completed agreeably to the provisions of this act, the corporation may then erect a gate or gates, at suitable distances apart, not less than eight miles, and de-

mand and receive of persons travelling said road, the tolls allowed by this act.

SEC. 24. The following shall be the rates of tolls for each and every eight miles of said road, and in the same proportion for a greater or less distance, to wit: For every four wheel carriage, wagon, or other vehicle, drawn by one horse or other animal, twelve and a half cents; for every horse or other animal in addition, six and a fourth cents; for every cart, chaise, or other two wheel carriage or vehicle, drawn by one horse or other animal, ten cents; for every horse or other animal in addition, six cents; for every sled or sleigh, drawn by one horse or other animal, eight cents; for every horse or other animal in addition, four cents; for each coach, charriot, or other four wheel pleasure carriage, drawn by one horse, eighteen and three-fourths cents; for every additional horse, ten cents; for every horse and rider, five cents; for every other animal of the horse kind, six months old and upwards, led or driven, two cents; for every head of neat cattle, one year old and upwards, one cent; *Provided, however,* That all persons, going to or returning from public worship, and all militia men going to and returning from musters, and all funeral processions, shall pass said road toll free.

SEC. 25. If any person or persons, using said road, shall, with intent to defraud said company, or to evade the payment of tolls, pass through any private gate or bars, or along any other ground near to any turnpike gate, which shall be enclosed pursuant to this act, or shall practice any fraudulent means, with intent to evade or lessen the payment of such toll, or if any person shall take another off said road, with intent to defraud said corporation, each and every person concerned in such fraudulent practice, shall for every such offence, forfeit and pay to the corporation, the sum of five dollars, to be recovered with costs of suit, in an action of debt, at the suit of the corporation, before any justice of the peace of the county: *Provided,* that nothing in this act shall be so construed as to prevent persons residing on said road, from passing thereon about their premises between the gates for common and ordinary business.

SEC. 26. The company shall put up a post or stone at the end of each mile, with the number of miles from where the road may be commenced, fairly cut or painted thereon, and also in a conspicuous place near each gate, shall be placed a board with the rates of toll fairly painted thereon, and all other necessary matter in relation to direction.

SEC. 27. Any person wilfully or negligently destroying, defacing or removing any guide post, mile post or stone, or list of rates of toll erected on said road, shall, on conviction thereof, before any justice of the peace, forfeit and pay a sum not exceeding twenty dollars, to be recovered with costs of suit, in an action on the case, at the suit and for the use of the corporation.

SEC. 28. If any toll gatherer on said road, shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater toll than is by this act allowed, he shall, for

every such offence, forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having competent jurisdiction, if sued for within twenty days after the occurrence.

SEC. 29. The corporation shall cause to be kept a fair account of the whole expense of making and repairing said road, or any section thereof with all incidental expenses; and also a fair account of the tolls received; and the books of the corporation always to be kept open for the inspection of any authorized agent of the Government or stockholders, or creditors of said company; and the said company may at any time dispose of the stock to the state, at a rate of interest on the the money of the individual stockholders actually paid in or expended about said work, of twelve and a half per centum per annum.

SEC. 30. The said corporation shall have full power and authority to demand and receive such toll from the United States mail carriages and carriers, as they have by this act a right to do, from the drivers of similar carriages: *Provided, however,* That nothing herein contained shall be so construed as to empower said corporation, or their agent, to stop or detain any persons, while actually employed in conveying the United States mail.

SEC. 31. This charter shall be limited to fifty years in its duration.

SEC. 32. This act to be in force from and after its publication, and shall be considered a public act in all courts of record, in, and out of the state, and in courts of justices of the peace, and shall be beneficially construed: *Provided, however,* That the Legislature shall have power to alter, amend, or repeal this charter any time hereafter by a vote of two thirds in favor thereof.

CHAPTER XV.

An Act to incorporate the Western Mutual Life Insurance and Trust Company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Caleb B. Smith, Robert Dale Owen, Cha's W. Cady, John Law, James Farrington, Cha's McCluer, Thomas D. Baird, Nathan B. Palmer, A. W. Morris, Wm. Quarles, Calvin Fletcher, and all other persons who may hereafter become members of said company, in the manner herein prescribed, be, and they hereby are incorporated and made a body politic, by the name of the "Western Mutual Life Insurance and Trust Company," and by that name may sue and be sued, plead and be impleaded, appear, prosecute and defend in any court of record, or other place whatever; may have and use a common seal, may purchase and hold such real and personal estate as may be necessary to effect the object of their association, and the same may sell and con-

vey at pleasure; may make, establish, and put in execution, such by-laws, ordinances and resolutions, not being contrary to the laws of this state, or of the United States, as may seem necessary and convenient for their regulation and government, and for the management of their affairs; and do and execute all such acts and things as may be necessary to carry into effect the purposes intended by this charter.

SEC. 2. The object of said company shall be, to make and effect insurances on lives of whatsoever sort or nature, to contract for, grants, and sell annuities and reversionary payments, to take, receive and hold all estates and property real and personal, which may be granted, committed, transferred or conveyed to them with their consent, upon any trust or trusts whatsoever, at any time or times, by any person or persons, body or bodies corporate, or by any court of the United States, or of the state of Indiana: and to administer, fulfil and discharge the duties of such trusts upon such terms as may be agreed upon and prescribed by the directors of said company. And for the security of persons contracting with, or entrusting moneys or estates to said company, the premium notes to be given said company by the members thereof, as hereinafter provided, shall be irrevocably pledged and bound.

SEC. 3. All and every person and persons who shall at any time become interested in said company, by investing therein, shall be deemed and taken to be a member thereof, for and during the terms specified in their respective policies, and no longer, and shall at all times be concluded and bound by the provisions of this act.

SEC. 4. Every person who shall become a member of said company, by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such sum or sums of money, and with such sureties thereon, as shall be determined upon by the directors, and to their satisfaction; a part not exceeding ten per cent. of which note shall be immediately paid for the purpose of discharging the incidental expenses of said company, and the remainder of said deposit note shall be payable in part or the whole, at any time when the directors shall deem the same requisite for the payment of losses, expenses or other obligations of said company; and at the expiration of the term of insurance, the said note or such part of the same as shall remain unpaid, after deducting all losses, expenses, and other obligations occurring during said term, shall be relinquished and given up to the signer thereof or his legal representative; and every member of said company shall be, and hereby is, bound to pay an equitable portion of all losses, expenses and other obligations, happening or occurring in and to said company, during the continuance of his or her policy or policies.

SEC. 5. Said company may make insurance for any term not exceeding ten years, and any policy of insurance issued by said company, signed by the president and countersigned by the secretary, shall be deemed valid and binding on said company, in all cases where the assured has fully complied with the conditions and obligations upon which his or her policy was issued: *Provided*, That upon due notice being given to the directors of the death of any member of said company, the policy issued to such member shall thereupon be void, and shall be

surrendered by the legal representatives of the assured to the directors of said company, to be cancelled; and upon such surrender, such legal representatives shall be entitled to receive the deposit note given by the assured, upon the payment of his or her proportion of all losses, expenses and other obligations that have occurred prior to such surrender.

SEC. 6. In the event of the death of any person insured in and with aid company, the legal representatives of such person shall give notice thereof in writing, to the directors or some one of them, or to the secretary of said company, within thirty days from the time such death may have happened, and the directors, in such way as they may deem proper, shall determine the loss sustained by the company; and if the party claiming is not satisfied with the determination of the directors, the question may be submitted to referees, or the same shall be heard and determined in any court of chancery held in and for the county of Marion, in the State of Indiana, within sixty days after the determination of the directors as aforesaid, and not afterwards, unless said court shall not be held within that time, in which case said question shall be submitted to the first court held after the expiration of the said sixty days: *Provided*, that execution shall not issue on any judgments against said company until after the expiration of three months from the rendition thereof.

SEC. 7. The directors shall, after receiving notice of any loss sustained by said company, and ascertaining the same, or after the rendition of any judgment as aforesaid, settle and determine the same to be paid by the several members thereof, as their respective proportions of such loss, and publish the same in such manner as they shall think proper; and the sum to be paid by each member shall always be in proportion to the original amount of his or her premium note or notes, and shall be paid to the treasury of said company within thirty days next after the time fixed for the payment of the same. And if any member shall, for the space of thirty days after the time of such payment, neglect or refuse to pay the sum assessed upon him or her, as his or her proportion of any loss as aforesaid, in such case the directors may sue for and recover the whole amount of his or her premium note or notes, with cost of suit; and the money thus collected shall remain in the treasury of said company subject to the payment of such losses, expenses and other obligations as have or may thereafter accrue; and the balance, if any remain, shall be returned to the party from whom it was collected, or to his or her legal representatives, on demand after thirty days from the expiration of the term for which insurance was made.

SEC. 8. The directors shall adjust and pay all losses within ninety days after due notice has been given of the same as aforesaid; *Provided*, They shall not make more than one assessment for losses in any one year; and in order that such assessment may be made payable at the annual meeting of the company, the directors are hereby authorized, in case of any loss as aforesaid, to borrow such sum or sums of money as may be required to pay the same, and in making the annual

assessment, the interest accruing on money borrowed, and also all necessary incidental expenses, shall be included in such assessment.

SEC. 9. There shall be an annual meeting of said company at Indianapolis, in the county of Marion, at such time as the said company may hereafter determine. At the first meeting of said company which may be called by the directors, there shall be chosen by a major vote of the members present, and by proxy, a board of directors, consisting of not more than twenty-five, nor less than fifteen members, whose terms of office shall continue as may hereafter be determined by the members of said company; and any five of the members of said board, present at any regularly called meeting of the same, shall constitute a quorum for the transaction of business. Special meetings of the company may be called by order of the directors, or at such time or times as the by-laws may direct. All vacancies happening or occurring in the board of directors, for any cause whatever, shall be filled by the remaining members of the board at the first meeting of the same thereafter.

SEC. 10. The directors shall superintend the concerns of said company, and shall have the management of the funds and property thereof, and of all matters thereunto relating, not otherwise provided for by said company. They shall appoint a secretary and treasurer, who shall hold their offices during good behaviour: and shall from time to time, appoint such other officers, agents and assistants as to them may seem necessary, and prescribe their duties, fix their compensation, and take such security from them as they may deem necessary for the faithful performance of their respective duties. They shall determine the rates of insurance, the sums to be insured, and the sum to be deposited for the insurance thereof; they shall order and direct the making and issuing of all policies of insurance; the reception and management of trusts; the providing of all books, stationary and other things needful for the office of said company, and for carrying on the affairs thereof; and may draw upon the treasurer for the payment of all losses, expenses and other obligations incurred in the transaction of the business of said company. The directors shall elect one of their own number to act as president of said company; and may hold their meetings at such times as may hereafter be determined; and shall keep a record of their proceedings.

SEC. 11. The company hereby created shall not be concerned in any trade or other business, except the objects mentioned in the second section of this charter; nor shall said company by virtue of any powers granted in this act, engage in any banking business whatever: *Provided, however,* That said company may invest any surplus moneys arising from the business of insurance on lives, or such moneys as may be committed to them in trust, in stocks of the United States, or in the stocks of the state bank of Indiana, as the interest of the members of said company may seem to require.

SEC. 12. Each and every member of said company shall be entitled to and allowed an examination of the books and papers thereof, upon application therefor to the secretary; and it shall be the duty of

the directors to make an annual report of the condition and affairs of said company to the members, a copy of which shall be furnished to the general assembly.

SEC. 13. The said Caleb B. Smith, Robert Dale Owen, Cha's W. Cady, John Law, James Farrington, Cha's McClure, Thos D. Baird, Nathan B. Palmer, A. W. Morris, Wm. Quarles, and Calvin Fletcher, named in the first section of this act, shall be, and they hereby are, constituted a board of directors for said company, to serve as such until the first election of directors by the members as provided for in the ninth section of this act, and any two of them may call a meeting. They may make up their number to twenty-five from among the members of said company; may fill all vacancies that may happen in said board, and five of their number present at any regular meeting shall constitute a quorum for the transaction of business. They may make and establish by-laws for the government of said company, and transact any business necessary and proper to carry into full effect the intentions and provisions of this act, until said matters can be provided for by the members and directors of said company as herein directed.

SEC. 14. This act shall take effect from and after its passage, and shall be liberally construed for the accomplishment of the ends and purposes hereby contemplated and intended.

This act may be repealed at any time by a vote of two-thirds of each branch of the general assembly voting in favor of such repeal.

CHAPTER XVI.

An Act to incorporate the "Governor's Guards" of Evansville.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That James Lockhart, George F. Lyon, James M. Stockwell and William Brown Butler and their associates and successors be, and they are hereby constituted and declared to be a body corporate, by the name and style of "*Governor's Guards of Evansville,*" and by that name shall have perpetual succession with full power and authority to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law or equity; to make, have, and use a common seal, and the same to alter at pleasure. They shall have full power to elect their own officers, under such rules and regulations as shall be prescribed by their by-laws; to make, ordain, establish, and enforce such by-laws, rules and ordinances, not inconsistent with the constitution and laws of the United States or of this State, as they

shall deem necessary for the welfare of said company, and to do and perform all other acts in pursuance thereof, necessary for the prosperity and good government of said company.

SEC. 2. The officers of said company shall be a captain, a lieutenant, and an ensign, who shall be commissioned by the governor of the state: *Provided, however,* If it should be the wish of a majority of said company when their number shall amount to sixty men, rank and file, they shall be permitted to elect a second lieutenant, who shall be commissioned as aforesaid; all resignations shall be made to the governor, who shall be at liberty to accept or refuse such resignation as he may think the interest of said company may require.

SEC. 3. The non-commissioned officers of said company shall be elected by the members of the company, and shall hold their offices during good behavior, and it is hereby made the duty of the commandant of said company to issue warrants to the non-commissioned officers with the corporate seal of said company thereto affixed, attested by the secretary, which warrant shall be sufficient authority for any non-commissioned officer, to do and perform any act that may be lawfully enjoined on him by his superior officers.

SEC. 4. It shall be the duty of the commandant to call said company out for parade and military improvement, at least six times in each year, and oftener if the company shall so direct by their by-laws.

SEC. 5. The discipline of said company shall conform as near as practicable to that of the United States army, and Scott's system of military tactics is hereby adopted as a standard.

SEC. 6. It shall be the duty of the commandant of said company annually on or before the first Monday in May to appoint a company court marshal to consist of a president and two members, whose duty it shall be to convene at least once in each year at such time and place as the commandant shall direct, and oftener if the by-laws of said company shall require it. It shall be the duty of the president of said court martial when convened to administer to the members the following oath: You do solemnly swear that you will support the constitution of the United States, the constitution of the State of Indiana, and that you will faithfully and impartially discharge the duties of a member of the present court martial according to the best of your abilities, so help you God. And after the members are sworn, it shall be the duty of one of them in like manner to swear the president, who when so sworn, shall declare the board duly organized.

SEC. 7. It shall be the duty of said court martial to hear and determine the sufficiency of any excuse that may be rendered by any officer, non-commissioned officer, musician or private for non-attendance at any parade, muster or drill call pursuant to the provisions of this act, or of any of the by-laws of said company, or for any deficiency in uniform, accoutrements or equipments, and assess such fine or fines as are authorized to be assessed by this act or of any by-law made conformable thereto.

SEC. 8. Should a vacancy happen in the company court martial,

the commandant of said company for the time being, is hereby authorized and required to fill the same.

SEC. 9. The following fines shall be imposed for non-attendance at any parade or muster, first: on a commissioned officer, not less than five nor more than twenty-five dollars; on a non-commissioned officer, not less than three nor more than five dollars; on musicians and privates, not less than two nor more than three dollars; for deficiency in uniform, accoutrements or equipments, not less than one nor more than five dollars for each article deficient, unless excused for the time being, by the commandant of said company.

SEC. 10. A majority of said company may expel a member for disorderly or ungentlemanly conduct while on parade. It shall also be the duty of the commandant of said company to return to the company court martial every commissioned and non-commissioned officer, musician or private, for disobedience of orders, or for any conduct derogatory of a soldier while on parade, who shall be fined, if adjudged guilty by said court martial, in any sum not less than five nor more than twenty-five dollars.

SEC. 11. All fines collected by said company shall be for the exclusive use and benefit of the same.

SEC. 12. All fines assessed by said court martial may be sued for and recovered in an action of debt before any justice of the peace or other court having jurisdiction thereof, and on the trial of any such cause, the record of the proceedings of said court martial duly signed by the president of the board, or a copy thereof duly certified under the hand of the secretary of said company with the company seal thereto affixed, shall be conclusive evidence that the fine for the recovery of which said action was brought, was legally assessed.

SEC. 13. All persons who shall serve for the full term of seven years as a member of said company from and after their enrolment, shall thereafter be exempt from all militia duty in this state, except called on in case of insurrection or invasion.

SEC. 14. Said company shall be subject to the civil power, and ready whensoever called on by the same to turn out for the purpose of aiding in quelling and suppressing all riots and insurrections which may happen (within the county of Vanderburgh.)

SEC. 15. That after the organization of said company, and so long as the same shall remain in active operation, the persons composing the said company shall not be required to perform any other militia duty in time of peace, any law to the contrary notwithstanding.

SEC. 16. This act shall be in force from and after it shall be published in print at Evansville.

CHAPTER XVII.

An Act to incorporate the Andersontown and Greenfield turnpike and trust company.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That all such persons as shall become stockholders, pursuant to the provisions of this act shall be, and they are hereby constituted a body corporate, for the purpose of constructing a M'Adamized turnpike road from Greenfield in Hancock county, by the way of Pendleton and Huntsville in Madison county, to the Central canal at Andersontown, in Madison county, and for other purposes, by the name and style of the Andersontown and Greenfield Turnpike and Trust company; and by that corporate name shall have perpetual succession, and shall be able and capable to sue and be sued, plead and be impleaded, defend, and be defended, to answer and be answered in law and equity, and in all courts whatsoever. And they shall in like manner be able and capable to contract and be contracted with; to purchase, acquire, hold, possess, use, have, occupy, and enjoy either by purchase, mortgage, lease or assignment, such real or personal estate or property, as may be necessary for the accomplishment or security of the purposes of their association, and the same, or any part thereof, to lease, rent, mortgage, assign, or sell, and convey whenever, and as often as may be necessary or convenient; *Provided*, that said real and personal property shall at no time exceed one hundred thousand dollars. The capital stock of said company shall be two hundred thousand dollars, with liberty to increase the same to three hundred thousand, if found necessary hereafter for said corporation to effect the purposes herein contemplated, which shall be divided into shares of one hundred dollars each, to be subscribed and paid as hereinafter directed.

SEC. 3. Robert N. Williams, John Burk, Palmer Patrick, and William Wright of Madison county, and Asa Goodwin, Abraham Rue, John Hager, George Henry, Nathan Crawford, and William Brigg, of the county of Hancock, are hereby appointed commissioners to open books, and receive subscription for stock, who, or any one of them shall on the first Monday in April next, or as soon thereafter as they may deem best, open the said books for the subscription of said stock in Greenfield, Andersontown and Pendleton, and such other places as they may deem advisable, and said books shall be continued open until two hundred and fifty shares of said stock shall have been subscribed for; and so soon as that amount has been subscribed for, stockholders shall meet at such place in Andersontown, and at such time as said commissioners shall designate, and under the supervision of said commissioners proceed to elect by ballot seven directors, to serve as directors until their successors are duly elected and qualified, under the provisions of this act.

SEC. 4. There shall be held annually on the first Monday in June or on such other day and at such place as the board of directors shall appoint, an election for seven directors, who shall serve as such until their successors are duly elected: *Provided*, that no person shall be elected director, unless he be a stockholder in said corporation.

SEC. 5. At all elections each share of stock shall entitle the holder to one vote, to the number of ten shares, and one vote for every three shares over ten, which may be given either in person or by proxy; and at all such elections, the seven persons having the highest number of votes shall be declared elected; the said election shall be conducted by the existing board of directors.

SEC. 6. All vacancies in said board shall be filled by the remaining directors, and any director ceasing to be a stockholder, shall thereby vacate his office.

SEC. 7. The said directors shall immediately after their election, hold a meeting and elect one of their number president of their board, and shall then proceed to discharge the duties enjoined upon them by this act.

SEC. 8. Five directors shall form a quorum for the transaction of business, and the acts of a majority of these shall bind the corporation.

SEC. 9. The affairs and business of said company shall be entirely under the direction and management and superintendence of the board of directors elected and appointed as aforesaid; and they are fully authorized and empowered to do, transact, and perform, for, and in behalf of said company, all and whatsoever the said company are by this act authorized to do, transact and perform; and to make, appoint, and employ, and at pleasure to remove and discharge any and all necessary agents, attorneys, officers, mechanics, workmen, laborers, and servants, for the purpose of constructing said road, or transacting the affairs and performing the business of said company; and to allow them a reasonable compensation for their services; said president and directors shall appoint a secretary and treasurer of said company who shall be removable at their pleasure. They shall also keep, or cause to be kept complete books and entries of all and singular their transactions and doings which shall at all times be open to the inspection of any of the stockholders. They shall also have power to ordain, make, or establish such rules, ordinances, and by-laws as may be necessary for their own regulation, for determining the time and place of company elections, and for directing the conduct of agents, officers, workmen, and such other persons as may be in the employment of said company, not inconsistent with the constitution and laws of this state or the United States. The said president and directors shall also have power to make, use, and adopt a common seal, and to change, alter, or renew the same at pleasure.

SEC. 10. The said president and directors shall also have power to demand of the subscribers to stock, payment in whole or in part, in such manner and at such times as they may deem expedient. But all calls shall be made equally on each share; notice of each call shall be published at least twenty days before the day it is required to be

paid, in a newspaper published nearest to the route of said road; and if any stockholder shall fail to make payment, according to the requirement of the president and directors, they may in their discretion declare the stock of said stockholder, on which such payment shall not be made, and all previous payments thereon forfeited; whereupon the same shall be taken and held to be absolutely forfeited to said company.

SEC. 11. Whenever the president and directors shall discover that an increase of stock is desirable, they may, after giving twenty days notice, of the time and place, open books for the subscription of stock, to be regulated by such rules as they in their discretion may adopt, but they shall not extend such increase so as to extend the capital herein allowed.

SEC. 12. The stock of said company shall be transferable or assignable on the books of said company, in such manner as shall be prescribed by the president and directors, and such stock shall, in all respects, be held and considered as personal estate, and as such, subject to execution against the proprietor.

SEC. 13. In all such contracts, agreements, and undertakings, as between natural and individual persons, do not require a seal, the said corporation shall be bound by the signature of the president, and the attestation of the secretary, without the seal of the corporation. And all such instruments, covenants, obligations, deeds, and conveyances in which by law a seal is required shall be signed by the president and directors, or a majority of them, and shall be attested by the secretary, and sealed with the seal of the corporation.

SEC. 14. The treasurer shall give bond and security to the satisfaction of the president and directors for the faithful discharge of his duties, and fully accounting for all moneys which may come into his hands as such treasurer; he shall receive all moneys belonging to said corporation, and shall pay the same out on the order of the president and directors; he shall keep full and complete books, and accounts of all his receipts and payments, and as often as required, by the said president and directors, shall settle and relinquish his accounts with them; the books and accounts of the treasurer shall at all times be open to the inspection of the president and directors, or any of the stockholders.

SEC. 15. The president and directors shall have full power to construct, complete, and keep in constant repair the road, with all the necessary buildings and appurtenances, for the making of which they shall have been incorporated; and if in the exercise of these powers, it becomes necessary for said company to use timber, or any other material, for which the company shall have obtained no release from the proprietor, they shall, in appropriating the same to their use, have the same privileges, and be governed by the same rules and regulations as provided for the board of internal improvement, in an act entitled, "an act to provide for a general system of internal improvement," approved January 27, 1836.

SEC. 16. Said road shall be laid out not less than sixty feet wide;

twenty-six feet of such width shall be graded, at an angle corresponding with that of the National road, and sixteen feet of such grade shall be faced with gravel, broken stone, blocks of timber, or charcoal, of sufficient depth to secure a firm, compact, and even surface, rising in the middle to a gradual arch.

SEC. 17. Said road may be laid out on all or any part of the state road, now leading from Andersontown to Greenfield: *Provided*, the boards doing county business in Madison and Hancock counties shall give their consent to the same.

SEC. 18. The boards doing county business as aforesaid, may each or either of them, subscribe in the name of their respective county, to as much stock in said corporation, as they deem proper and expedient.

SEC. 19. Said company shall have the right to collect the same rates of toll as shall be established by the board of internal improvement upon state works of a similar character.

SEC. 20. That the office of the said company shall be kept at Andersontown in Madison county, and that the same be, and is hereby made an office of discount and deposit, and said company is hereby authorized to receive deposits of money, this state or other bank paper, and discount or loan the same: *Provided*, that all deposits made in said office, shall be paid on demand in specie or its equivalent; *And provided also*, that nothing herein contained shall be so construed as to authorize said company in any manner whatever, to enter into any banking business for the purpose of issuing bills of credit, or other notes as a circulating medium.

SEC. 21. That all cases where said company shall refuse to pay deposits made in said office on demand, such deposits shall be recovered on motion, to be made in any court of competent jurisdiction, ten days previous notice having been given of such intended motion, if the same shall be in the circuit court, and three days notice if such motion shall be made before a justice of the peace, and on such judgments there shall be no stay of execution; and on all judgments against said company for deposits in said office, there shall be allowed ten per cent. damages, and interest at the rate of six per centum per annum, from the time of deposit till paid.

SEC. 22. The board of directors shall semi-annually declare such dividends of the profits of the company as they may deem for the interests of the company; the president, directors, secretary and treasurer shall receive such compensation for their services, as may be, from time to time, determined by the stockholders, at their general meetings.

SEC. 23. Service and process against the corporation shall be made on the president and secretary thereof.

SEC. 24. This act may be altered, amended, or repealed at any time, by a vote of two-thirds of the general assembly concurring therein.

SEC. 25. This act for all judicial purposes is declared a public act, and shall be in force from and after its passage.

CHAPTER XVIII.

An Act to incorporate the town of Columbus, in the county of Bartholomew, Indiana.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That Samuel B. McGehan, A. T. Green, John F. Jones, John M. Gwin, and Charles Jones, be and they are hereby appointed trustees of the town of Columbus, Indiana, to serve as such until the first Monday in June, 1839, or until their successors are elected and qualified, as hereafter directed.

SEC. 2. That said trustees shall meet on the first Monday in April next, after the passage of this act, and shall, from their own body, elect a president. The said president and trustees, and their successors in office, shall be and they are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of the president and trustees of the town of Columbus, and by their corporate name, shall be capable both in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court of competent jurisdiction. They shall have power to ordain and establish, and put in execution, all such laws, ordinances, and regulations, as they shall deem necessary for the police, good government, and order of said town, subject to the limitations, and provisions, hereinafter provided, and not inconsistent with the constitution and laws of this state, and the United States.

SEC. 3. On the first Monday in June, 1839, and annually thereafter, there shall be an election held at some convenient place in said town, to be designated by the said president and trustees, to elect by ballot five trustees for said corporation, at which election all white male inhabitants of said town, possessing the qualification of voters for state and county officers, and who shall have resided within the bounds of said corporation three months next preceding said election, shall be entitled to vote; and it shall be the duty of the president and trustees to give ten days previous notice of the time and place of holding said election, by publishing the same in some newspaper printed in said town, (if there be one,) or by posting up in three public places in said town.

SEC. 4. The president of said corporation, shall act as inspector of elections, who shall attend the same and call to his assistance two of the qualified voters of said town, who shall be judges of said election, and shall appoint a clerk of said election, and, together with said clerk, shall take an oath or affirmation faithfully and impartially to discharge their duties. They shall, after taking such oath or affirmation, attend at the time and place appointed for said election, and proceed to receive the votes of the voters of said town for five trustees, to serve as such for the ensuing year, or until their successors are elected and qualified. *Provided, however,* That if said voters shall fail to attend, or

the president and trustees fail to give notice of said election, the said corporation shall not thereby be dissolved. But said president and trustees shall serve until the next annual election, and until their successors are chosen and qualified. *Provided further,* That should the president not attend said election, the voters present may choose from among themselves, an inspector, who shall take an oath or affirmation, as aforesaid, and shall proceed and conduct the election in all respects as directed in this section.

SEC. 5. It shall be the duty of the said president and judges of said election, to certify under their hands and seals the five persons who have received the highest number of votes, which certificate shall be filed and recorded by the clerk of the said corporation, and a copy thereof given to each of the five persons returned. The said trustees thus elected, or a majority of them, shall meet within twenty days after such election, and after taking an oath or affirmation faithfully and impartially to discharge their duties, shall proceed to elect one of their own body as president, whose duty it shall be to preside at the meetings of the board, preserve order, sign the record of their by-laws, journal or minutes of proceedings, which shall also be attested by the clerk of said corporation, and after a copy thereof, of a public nature, signed by the president and attested by the clerk, shall have been published in a newspaper printed in said town, (if there be one,) or posted up in three public places in said town ten days, therein such laws shall be in force: all other laws to be in force from and after their passage and signing as aforesaid.

SEC. 6. A majority of the trustees shall at all times form a quorum; they shall meet on their own adjournments, and appoint all officers necessary to carry into effect the provisions of this act, and make them such compensation as to them shall seem reasonable. No person shall be eligible as a trustee unless he be a qualified elector, and a freeholder or householder within the bounds of the said corporation. When vacancies happen by death, resignation, or otherwise, they shall be filled by the appointment of the trustees, until the next annual election.

SEC. 7. The president and trustees shall have full power and authority to levy and collect annually, from each male inhabitant of said town, of full age, sane, and not a pauper, a poll tax not exceeding fifty cents in any one year. Also, a tax on real property not to exceed one-half of one per cent. on its valuation; and on all shows, exhibitions, and amusements, which may be exhibited or performed for gain, any sum not exceeding twenty dollars for each exhibition or performance thereof, and may levy and collect a tax on any specific article or articles of personal property.

SEC. 8. The president and trustees shall, in the month of April in each year, appoint an assessor, who shall take an oath of office, and give bond and security, to be approved of by the president and board, conditioned for the faithful performance of his duties as assessor; after which he shall proceed forthwith to make a fair list, in alphabetical order, of all persons subject to tax, together with such property as the

president and trustees may direct him to list, also of all lots or fractions of lots, particularly noting the number and description thereof, the owner's name, if known, and whether resident or not. After having completed such assessment, he shall call to his assistance two freeholders, who, having been sworn faithfully and impartially to value the real property, exclusive of improvements, so listed, shall with the assessor proceed to value the same; and such assessor shall on or before the second Monday in May next, make return to the clerk of the corporation of such list and assessment.

SEC. 9. The president and trustees shall, in the month of May in each year, levy a tax on the property so listed and returned by the assessor, and appoint a collector, who shall take an oath, and give bond with security, to be approved of by the president and trustees, conditioned for the faithful performance of his duties, and that he will faithfully pay over to the treasurer of the corporation, or such person as may be authorized to receive the same, all monies that may come to his hands as such collector. Said collector to serve for one year, unless sooner removed.

SEC. 10. The president and trustees shall cause the clerk of the said corporation to make out a fair list of all persons taxable with a poll tax, with personal property, and real property, with its valuation, setting forth the owner's name, if known; the amount of tax chargeable to each person, and the amount charged on each article, and shall deliver a duplicate copy of the same to the collector on or before the first Monday in June annually, and certify the amount of tax contained in said duplicate to the treasurer; such list put into the hands of the collector, signed by the president and certified by the clerk, shall be sufficient authority for the collector to collect the same.

SEC. 11. It shall be the duty of the said collector, to receive and collect the amount of tax due from each individual as charged in said duplicate list, on or before the first day of August in each year, and shall on or before the said first day of August in each year, pay over the said tax to the proper person authorized to receive the same; and in all cases when the tax is not paid by that time, it shall be the duty of said collector to proceed by sale and distress of personal and real estate, in the same manner as the collectors of state and county revenue are required to proceed, by the laws which now are and hereafter may be in force, regulating the duties of collectors of state and county revenue; in all respects, not otherwise herein directed, the said collector shall be governed by the laws of this state in relation to the state and county revenue, and all sales by such collector of real and personal estate, shall be as valid and binding, as if made by sheriff or collector of state and county revenue; and all deeds made or certificates given by him, shall have the same force and effect as if made by such sheriff or collector; and lands or lots so sold for tax, shall be redeemable in the same manner as lands sold for state or county tax. Said collector shall on or before the first Monday in October each year, make return to the clerk of the corporation of his proceeding, and of

all sales by him made; and he shall at the same time furnish a delinquent list, for which he shall receive a credit, if true.

SEC. 12. The president and trustees shall in the month of May each year, appoint a treasurer, who shall take an oath and give bond, to be approved of by the president and trustees, conditioned for the faithful discharge of his duties as such treasurer.

SEC. 13. Whenever the owners of any lots on any street or section of street, shall be desirous of improving the same, by grading, graveling, or paving said street, or side-walk thereof, or any other improvement of said street or side-walk, two-thirds of the resident owners of lots on said street or section of street, by themselves or agents representing two-thirds of the number of front feet owned by resident owners on such street, or section of street, shall by petition represent to the president and trustees plainly and distinctly the improvement wanted, or contemplated to be made, it shall be the duty of the said president and trustees to cause the same to be done in the most economical manner, agreeably to the wishes of said petitioners, and the expense of such improvement shall be assessed and levied on all the lots fronting on such street or section of street, equally per front foot, for the distance such improvement may be intended to extend; which assessment and levy, from the time of making the same, shall be a lien on said lot or lots, until the amount so assessed and levied be fully paid and discharged. It shall be the duty of the clerk of said board to enter such petition on record, with the petitioners' names, the number of feet front owned or represented by each, and to make and deliver to the collector of the corporation, a list of the owners' names, if known, the number of feet front owned by each individual, the rate of expense on said lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot, which list signed by the president and certified by the clerk, shall be a sufficient authority for said collector to proceed to collect the same; and if the owner or agent of any such lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the collector shall proceed to collect the same by sale of such lot, or fraction of lot, or so much thereof as may be sufficient to pay the amount so levied and costs of sale; and the said collector shall in all respects proceed in such sale in the same manner as in the sale of lots for tax, and the right of redemption shall be the same as in the case of sale for tax; and if any such lot or fraction of lot shall not sell for want of purchasers, or any other cause, the said collector may postpone the sale from time to time, until the same shall be sold, adding the costs of former advertising: said collector shall be allowed in costs for advertising, fifty cents, and fifty cents for making deed or certificate.

SEC. 14. It shall not be lawful for any person or persons, within the bounds of said corporation, to sell by a less quantity than one quart at a time, any spirituous liquors, foreign or domestic, or keep what is commonly called a tippling house or grocery, unless such person or persons shall, in addition to the license obtained from the board of county commissioners, obtain a license from said corporation, who is

hereby authorized to grant the same to such applicant for one year, on his, her, or their paying into the treasury of said corporation, a sum not exceeding ten nor less than three dollars, at the discretion of the president and trustees; and if any person or persons shall sell any spirituous liquors, or keep what is commonly called a tippling shop or grocery, contrary to the provisions of this act, he, she, or they, so offending, shall upon conviction thereof, upon presentment, or indictment, or otherwise, before any court of competent jurisdiction, be fined in any sum not exceeding fifty nor less than five dollars, for the use of the county seminary in said town.

SEC. 15. Fines and penalties for the violation of any of the laws or ordinances of said corporation, may be inflicted and recovered before justices of the peace residing within the limits of said town, who are hereby invested with jurisdiction of the same.

SEC. 16. The bounds of said corporation shall, for the purposes of taxation and police, extend and embrace the plat of said town, including all out lots, and any addition or additions that have been or may be made thereto, as the same may be or shall be recorded in the recorder's office of the county of Bartholomew; and for the purposes of good government, the removal of nuisances, the suppression of gambling, horse racing, tippling, or any other immoral conduct, the limits of said corporation shall extend three-fourths of a mile from the courthouse in every direction.

SEC. 17. This act can be altered or amended at any time, two-thirds of the Legislature concurring. This act to be in force from and after its passage; *Provided*, That should the president fail or neglect to attend any of the meetings of said board, the members present may proceed to elect from among themselves a *president, pro tempore*, who shall serve at such meeting, and discharge all the duties for the time being, required of the president.

CHAPTER XIX.

An Act to incorporate the Indiana Medical Institute.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That William H. Martin, David A. Cox, Ryland T. Brown, Abram Carter, Horatio G. Sexton, Samuel T. Sharp, Jefferson Helm, and their associates, now known as the society of the fifth medical district of the state of Indiana, be, and the same are hereby created, and made a body corporate and politic, with perpetual succession, who shall be known and distinguished by the name and style of "The President,

Society and Faculty of the Indiana Medical Institute," and by that name and style, they and their successors, shall be a body in law capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, as natural persons are or may be, in all courts and places, and in all manner of suits, complaints, bills, causes, and matters whatsoever. They shall have and use a common seal. They shall be capable of purchasing, receiving, holding and enjoying, and of granting, selling and conveying, any estate or property, real or personal, (*provided*, it shall not exceed one hundred thousand dollars in value,) necessary for promoting the object of this act of incorporation, which object is hereby declared to be the creating of a Medical Association, and the erection and maintenance of an institution for the promotion of medical science.

SEC. 2. *Be it further enacted*, That the affairs of the said "Indiana Medical Institute," shall be under the management, control, and direction of the president, society, and faculty aforesaid.

SEC. 3. *Be it further enacted*, That the said society of the "Indiana Medical Institute," shall meet annually on the first Monday in May; and at each annual meeting, they shall elect from their own body by ballot, a president, vice-president, secretary, and three censors, and likewise a treasurer, who shall give bond and security for the faithful performance of his duty; and they may also elect such instructors and lecturers, as they may deem necessary for promoting the interests of the said institute; which officers and instructors may be removed at the pleasure of the society. They may, from time to time, make and enforce such by-laws and regulations, for the government of the said society and institute, as may to them seem proper: *Provided*, They be consistent with the laws of the United States and of this state.

SEC. 4. *Be it further enacted*, That the said "president, society and faculty," may grant to and confer on any candidate, license to practice medicine, &c., or any other testimonials or credentials, as upon due examination, they may deem him entitled to.

SEC. 5. *Be it further enacted*, That all the property owned by and debts due to the society of the fifth medical district of the state of Indiana, be and the same are hereby transferred to the society of the institute aforesaid; and all the debts and demands against the society of the fifth medical district of the state of Indiana, shall be paid by the society of the institute aforesaid.

SEC. 6. *Be it further enacted*, That said institute shall be located at that point, within the bounds of the fifth medical district, where the greatest amount of available funds shall be donated for its use.

SEC. 7. This act of incorporation shall take effect from and after its passage.

CHAPTER XX.

An Act to incorporate the New Albany and Georgetown Turnpike company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Isaac Richards, George Balor, David Summers, Henry Watts, Jacob Yendine, Isaac Bowman, John Plaiss, Jesse Oakman, Nathaniel Moore, and William Hockday and their successors in office, duly elected as hereinafter directed, are hereby constituted a body politic and corporate, and by the name and style of the New Albany and Georgetown Turnpike company, shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, in any and all courts whatsoever; to make and use a common seal, and the same to alter or change at pleasure; and shall be able in law to make contracts, and enforce the same, and to make and enforce the necessary by-laws, rules and regulations, to enable them to carry into effect, the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws of this State.

SEC. 2. The capital stock of said corporation shall be ninety thousand dollars, divided into shares of twenty-five dollars each, with power to increase the capital stock if necessary to accomplish the objects herein contemplated.

SEC. 3. The directors in this act named or a majority of them shall meet, at such time and place, as they may agree on, and organize said corporation, by electing one of their body president, and after such organization, any five of said board shall form a quorum to do business.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other persons and officers necessary to carry into effect the provisions of this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws and regulations, and all orders for the payment of such allowances as may be made to their officers, and all others in their employ; which journal and proceedings shall be signed from time to time, by the president. They may sit on their own adjournments, or on the call of the president; *Provided*, That when the president is absent, they may appoint a president, pro tempore, and shall have power to fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for the subscription of capital stock, at such time and at such places as they may choose, due notice of which shall be given in some public newspaper in this state; in each of which books the following entry shall be made:

"We, the undersigned, promise to pay the sum of twenty-five dollars for each share of stock set opposite our names, in such manner

and proportions, and at such times, as the president and directors of the New Albany and Georgetown turnpike company may direct. Witness our hands, this day of 1839."

SEC. 6. That it shall be lawful for all persons of lawful age, for the agent of any corporate body, to subscribe for any amount of the capital stock; and the said corporation may by agent offer for sale in any other state, any amount of stock, upon such terms and conditions as may be thought advisable; and they shall have power on their own credit, to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sum of money to be paid at the time of subscribing, not exceeding five dollars on each share, as they may think proper; but the amount required shall be made known in the notice for opening the books; and any future payments on the stock, shall be under the control of the corporation.

SEC. 7. That as soon as one thousand shares are subscribed for, and five dollars paid on each share, it shall be the duty of the corporation to give four weeks notice thereof, in some public newspaper of this state; and in such notice, appoint a time and place for the stockholders to meet and elect seven directors, who shall be stockholders and citizens of this state; which election shall be by ballot, and conducted under the superintendence of one inspector and two judges, appointed by the stockholders present; and the persons having the highest number of votes shall be declared duly elected; in all elections, each share, from one to five, shall entitle the holder to one vote, and in like proportion for any number of shares holden by any individual, to be given by the person owning the same, or by one of any partners, or by any trustee, or guardian, or administrator, or executor, or by the agent of any incorporation; or any person having a right to vote, may vote by proxy.

SEC. 8. That it shall be the duty of the directors elected as aforesaid and those elected at all subsequent elections, to elect one of their body to be president. The president and directors thus elected, shall continue in office until the next annual election, and until their successors are elected and qualified.

SEC. 9. That all elections after the first, shall be holden on the first Monday in January, annually, under the direction of the stockholders present, of which election notice shall be given; but should no election be held on the day appointed by this act, or by the directors of the first election, it shall be lawful to hold the election on any other day subsequent thereto.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held; they shall be signed by the president, and countersigned by the clerk. The stock shall be transferred on the books of the corporation only, but such stock shall be at all times holden by the corporation for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on a contract prior to such transfer.

SEC. 11. The corporation shall have power to call for such portions

of the stock subscribed, not exceeding twenty-five per cent., every six months, as they may think proper; to be paid at such time and place as they may designate, by giving sixty days notice thereof in some public newspaper of this state, or by giving written notice to the stockholders, in which shall be specified the amount demanded on each share, and the time and place of payment; and if any stockholder should refuse or neglect to pay such requisition within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount with interest thereon at the rate of ten per centum per annum; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with the amount paid thereon; and no delinquent shall have the right to vote for directors, or receive any dividend on his or her stock, until the corporation is fully satisfied. The corporation shall require of all officers and others in their employ, bonds with security, as they may think proper, for the faithful performance of their respective duties.

SEC. 12. The corporation shall have power, by themselves or agents, to examine, survey, and locate a turnpike on that portion of the state road leading from the town of New Albany in Floyd county to Jasper in Dubois county, as lies within the county of Floyd, by the way of Georgetown; and the said company shall have power to locate said route upon the most eligible and suitable ground, the same to be not more than sixty feet in width.

SEC. 13. That for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents or persons in their employ, to enter upon any lands to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road; but no stone, gravel, or other material, shall be taken away from any lands without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

SEC. 14. That it shall be lawful for said corporation, either before or after the location of said road, to obtain from any person or persons through whose lands said road may run, a relinquishment of so much of said land as may be necessary for the construction of said road, as also the stone, gravel, timber, or other materials that may be obtained on said route, and may contract for stone, or other materials, that may be obtained from any lands near thereto; and all such contracts, relinquishments, and donations, gifts, or bequests, made and entered into in writing, by any person or persons capable in law to contract, made in consideration of such location, and for the benefit of such corporation, shall be binding and obligatory; and the corporation may and shall have their action at law, in any court of competent jurisdiction, to compel a compliance thereto.

SEC. 15. The corporation shall commence the construction of said road within three years, and complete the same within ten

years: *Provided*, That if five or ten miles of said road shall be completed within the time aforesaid, the charter shall not be forfeited as to that portion of said road so completed.

SEC. 16. The said corporation shall cause said road to be opened not exceeding sixty feet wide, at least eighteen feet of which shall be an artificial road, composed of stone, gravel, or other suitable materials well compacted together in such manner as to secure a firm, substantial and even road, rising in the middle with a gradual curve, and shall maintain and keep the same in good repair, and in no case shall the ascent in the road be greater than an elevation of five degrees.

SEC. 17. That if said road after its completion shall be suffered to go to decay or be impassible for one year, unless, when the same is repairing, this charter shall be considered as forfeited.

SEC. 18. That so soon as said corporation shall have completed said road, or any five miles thereof agreeable to the provisions of this act, they may erect a gate or gates at suitable distances apart, not less than five miles, and demand and receive of persons travelling said road the tolls allowed by this act.

SEC. 19. The following shall be the rates of tolls for each and every ten miles of said road, and in the same proportion for a greater or less distance, to-wit: for every four wheel carriage, wagon, or other vehicle, drawn by one horse or other animal, a sum not exceeding eighteen cents, for every horse or other animal in addition, six cents; for every cart, chaise, or other two wheel carriage or vehicle drawn by one horse or other animal not exceeding twelve cents, for every horse or other animal in addition six cents; for every sled or sleigh, drawn by one horse or other animal, six cents, for every horse or other animal in addition six cents; for every coach, chariot, or other four wheel pleasure carriage drawn by one horse or other animal, not exceeding eighteen cents, for every additional horse or other animal six cents; for every horse and rider not exceeding six cents; for every horse, mule, or ass six months old and upwards, led or drove not exceeding three cents; for every head of neat cattle six months old and upwards, one cent; every hog or sheep, a half cent each: *Provided*, That in making change for tolls nothing in this act shall be so construed as to bind the toll gatherer to make the change even where there remains three-fourths or one-fourth of a cent due according to this section of this act: *And provided further*, that all persons going to or returning from public worship, and all funeral processions shall pass said road free of tolls.

SEC. 20. That if any person, using said road, shall with intent to defraud said company or evade the payment of tolls, pass through any gate or bars, or along any other grounds near to any turnpike gate which shall be enclosed, or shall practice any fraudulent means with intent to evade or lessen the payment of such tolls, or if any person shall take another off said road with intent to defraud said corporation, each and every person concerned in such fraudulent practice, shall, for every such offence, forfeit and pay to the corporation the sum of five dollars, without any stay of execution, to be recovered with costs

of suit, in an action of debt at the suit of the corporation, before any justice of the peace of the county: *Provided*, That nothing in this act shall be so construed as to prevent persons residing on said road from passing thereon about their premises for common and ordinary business.

SEC. 21. The company shall place a stone or post at the end of each mile, with the number of miles from either extremity fairly cut or painted thereon, and also in a conspicuous place at each gate shall be placed a board with the rates of toll fairly painted thereon, and all other matter necessary in relation to direction.

SEC. 22. That any person wilfully or maliciously destroying, defacing or removing any guide-board, mile-stone, or post, or list of rates of toll erected on said road, shall on conviction thereof before any justice of the peace, forfeit and pay a sum not exceeding twenty dollars, to be recovered with costs of suit in an action on the case, at the suit and for the benefit of the corporation.

SEC. 23. That if any toll-gatherer on said road shall unreasonably detain any passenger after the toll has been paid or tendered, or shall demand or receive greater tolls than by this act is allowed, he shall for every such offence forfeit and pay a sum not exceeding ten dollars, to be recovered before any justice of the peace having jurisdiction, within twenty days thereafter.

SEC. 24. The corporation shall cause to be kept a fair account of the whole expense of making and repairing said road, or any section thereof, with all incidental expenses; and also a fair account of the tolls received; and the books of said corporation shall be always kept open for the inspection of any stockholder or creditor of said company; and the said company may at any time dispose of the stock to the state, at a rate of interest on the money actually paid in or expended about said work, of ten per centum per annum.

SEC. 25. That it shall be lawful for the county commissioners of Floyd county for and on behalf of said county, to authorize by an order as much of the stock to be taken as they may think proper.

SEC. 26. This charter is hereby limited to fifty years; *Provided*, that nothing in this act shall be so construed as to interfere with the charter of the New Albany and Mount Carmel rail road.

SEC. 27. This is declared a public act, and shall be in force from and after its passage.

CHAPTER XXI.

An Act to amend an act to incorporate the town of Terre-Haute, approved February 17, 1838.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the inhabitants of the town of Terre-Haute, be, and they are hereby declared to be duly incorporated by virtue of, and according to the provisions of the act to which this is an amendment; and the election of members of the common council and mayor, under and by virtue of said act of incorporation, on the first Monday in May, 1838, is hereby declared to be legal, and no proof thereof shall be required in any court of justice in any legal proceeding.

SEC. 2. That part of the act to which this is an amendment, which provides that the mayor of said town shall be ex-officio president of the board of common council, is hereby repealed; and it shall be the duty of said board to elect one of their members as president of said board, whose appointment shall be recorded among the proceedings and records of said board, and who shall discharge all the duties assigned to the mayor under the act to which this is an amendment, as president of said board; and five members of said board, exclusive of the president so elected, shall form a quorum to do business. In case of the absence of the president, the board may appoint a president pro tempore of said board, and whenever a vacancy shall occur in the office of the president of the board, said board shall immediately fill the same by another election.

SEC. 3. That the corporation of the town of Terre-Haute shall hereafter embrace all the territory within the following limits, to-wit: Commencing on the west bank of the Wabash river on the line dividing sections sixteen and twenty-one in town twelve north, range nine west, and running thence east to the south-west corner of lot number sixty in said section number sixteen; from thence north to the north-west corner of lot number thirty-seven in said section sixteen; from thence to the north-east corner of lot number thirty-eight in said section sixteen; from thence south to the line dividing said section sixteen and section twenty-one; from thence east on said line to the east side of the county road running north and south on the east line of said section twenty-one; from thence south to the canal as now located; thence along said canal east and south to a point due east from the south-east corner of Aaron B. Fontaine's addition to said town; from thence west to the south-west corner of said addition; from thence south to the south-east corner of out-lot in the town of Terre-Haute company's survey of out-lots numbered sixty-one, (61); from thence west to the west bank of the Wabash river, and from thence up said river bank to the place of beginning: *Provided*, that the lands included in the present addition to the corporation other than building lots shall

be exempt from taxation until the same may be laid out, excepting such tax as might have been levied for road purposes, had it not been included in said limits.

SEC. 4. That the term of office of the members of the board of common council after the expiration of the term of the members elected on the first Monday in May last, shall extend to the first Monday in January, annually, and until their successors are chosen and qualified; and the term of office of the mayor shall extend to the first Monday in January, 1841, and until his successor is chosen and qualified; that on the first Monday in January, 1841, and triennially thereafter, the office of Mayor shall be filled by a new election: *Provided, however,* that in all cases the members of the common council and mayor shall serve until their successors are chosen and qualified.

SEC. 5. That it shall be the duty of the mayor in addition to the duties already assigned him to cause the ordinances, rules, and regulations of the common council to be observed and enforced; to inspect the conduct of all subordinate officers of the corporation; keep the seal of the town, and also have a supervisory care of the interests of the town, making reports and recommendations concerning the same from time to time to the common council. It shall be his further duty to keep an office provided by the common council, and he is hereby authorized to take and certify acknowledgements and proofs of all instruments of writing; to take and certify depositions, and his certificate with the seal of the town affixed thereto, shall be a sufficient authentication of his official acts in any county or court in this state, and for every such certificate and seal he shall be entitled to receive the sum of fifty cents, and for other services the same fees as justices of the peace are entitled to receive for similar services; and in addition to the foregoing compensation, he shall be allowed such annual compensation as the common council shall deem reasonable.

SEC. 6. That copies of any ordinance, rule, or regulation made by the common council, certified and signed by the president thereof under the seal of the town, shall be sufficient evidence of the existence of such rule, regulation, or ordinance, in any judicial proceedings; providing such ordinance, rule or regulation requiring publication shall have been duly published.

SEC. 7. Free authority is hereby given to the board of common council to provide a supply of water for the use of the town, under such rules and regulations as they may deem best calculated to advance the interests of the town.

SEC. 8. Said board shall have power to widen the existing streets in said corporation not exceeding sixty-five feet, and to lay off, establish and open new streets of the same or a less width: *Provided, however,* that in all cases where new streets are established and opened, or old streets widened, any person who shall sustain any damage thereby shall be compensated in the manner following: The common council shall appoint three disinterested persons to assess the damages so sustained, and when so assessed and determined, said board shall proceed

to assess a tax on the property fronting on such new street or such change made, according to its value exclusive of its improvements thereon, when such damages do not exceed the benefit derived from the establishment of such new street or such change, and the owners of such property shall stand charged with such tax as in other cases, and the same shall be collected as in other cases, but where the damages exceed the benefits, the excess shall be paid out of the general fund of the town: *Provided, however,* that any person feeling himself aggrieved by the decision of the persons appointed by the common council to assess the damages in the opening or widening of a street shall have the right to appeal to the circuit court by filing a notice with the mayor or council within sixty days after a return of the assessment to said mayor or council, and it shall be their duty to hand over all their proceedings to the clerk of said circuit court.

SEC. 9. Said board is authorized to grade, drain, gutter, and pave or M'Adamize any of the streets or alleys in said corporation, at the expense of the owners of property fronting thereon by a tax to be levied as in other cases on the unimproved value thereof; the corner lots to be valued diagonally from the corner so as to leave each front to be taxed for the improvement of its proper street; said board shall also have power to grade and pave the side walks in front of any improved lots in said town at the expense of the owners thereof; the expense of such improvement to be taxed against the lot forming such improvement charged against the owner thereof and collected as other taxes are: *Provided, however,* that the owner of such property shall always have the privilege of making such improvement under the direction of said board, and provided also that in all cases, in opening, widening, grading, paving and improving streets, alleys, or side walks in said town, the same shall be done under the supervision and direction of said board, or of the mayor of said town.

SEC. 10. It shall be the duty of said board on the petition of the owners of two-thirds of the number of feet front on both sides of any street or alley, to cause the same to be graded, drained, paved, M'Adamized or otherwise improved, according to the provisions of the foregoing section of this act.

SEC. 11. Said board shall have the power to cause to be filled up or drained any two [low] places or pools within said corporation, taxing the expense thereof against the owners of the property on which the same is situated as in other cases, and to prohibit the construction or erection of any porch or other permanent obstruction upon the side walk of any street or alley in said town.

CHAPTER XXII.

An Act to incorporate the Dublin Academy.

[APPROVED FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all persons who shall become stockholders pursuant to this act, shall be and they are hereby constituted a body corporate, by the name and style of the "Dublin Academy," and by that name to sue and be sued, to defend and be defended in law and equity in all courts whatsoever, have and use a common seal, and the same to alter at pleasure; to purchase, to receive, and accept of any gift, grant, donation, bequest or conveyance by any person, company or corporation, of any property, real and personal, and to hold, enjoy, and dispose of the same as may be deemed best for the interest of said academy.

SEC. 2. The capital stock of said corporation shall not exceed twenty-five thousand dollars, divided into shares of twenty-five dollars each.

SEC. 3. Whenever one hundred shares of stock in said corporation shall be subscribed, the trustees of said corporation shall give written notice by public advertisement of the time and place of the meeting of the stockholders for the purpose of choosing five trustees and one treasurer, being stockholders and legal voters of said corporation.

SEC. 4. The stockholders after the first year shall have an annual meeting on the first Saturday in April in each year, or on such other time as the stockholders at any regular meeting may direct; at which meeting the officers of the corporation shall be elected for the ensuing year.

SEC. 5. Each stockholder shall have one vote for each share he may hold in said institution; *Provided*, that each stockholder shall be allowed to vote only in proportion to the number of shares he may actually have paid into said institution.

SEC. 6. No person shall transfer his or her stock in said academy, or any part thereof, to any person or persons (except to stockholders) without the consent of a majority of any regular meeting, and in case of transfers, they shall be valid, when entered of record by the secretary of the board of trustees.

SEC. 7. The trustees, or a majority of them, shall at their first or any regular meeting, elect one of their own body as president, who shall preside at all meetings of the trustees and stockholders, and in all cases, give the casting vote. It shall also be his duty to serve as secretary, or the trustees may appoint a secretary.

SEC. 8. The treasurer, before he enters upon the duties of his office, shall execute a bond, payable to the Dublin Academy, in the penal sum not exceeding double the amount of the funds, which may probably come into his hands, in the discretion of the trustees, condi-

tional for the faithful performance of his trust, making a true report of the condition of the treasury to said trustees, at least once a year, and as much oftener as said trustees may require, and that he will pay over to the order of said trustees all the money that may come into his hands as such treasurer, and to deliver to his successor in office, all money, bonds, notes, books, papers, and valuable things whatever, that may come into his hands as treasurer. It shall be the duty of the treasurer, in the name of the company, to collect all tuition fees, taxes and contributions assessed upon the stockholders, and any and all dues whatsoever with the Dublin Academy.

SEC. 9. Said trustees shall keep a book, in which the secretary shall record all their proceedings, as also the proceedings of the stockholders, which shall be from time to time signed by the president.

SEC. 10. No money shall be paid over, nor bonds delivered up, but upon the order of the trustees entered of record, as aforesaid; a copy of which order, certified by the president, shall be sufficient authority for the treasurer to pay over the amount to the person in whose favor such order was made.

SEC. 11. The board of trustees shall have full power from time to time to make such by-laws, ordinances, and regulations, not inconsistent with the laws of the state of Indiana, or of the constitution and laws of the United States, nor of the true intent and meaning of this act, as shall be deemed necessary for the welfare and interest of said institution; and to do all other acts in pursuance thereof, necessary for the prosperity of said academy; and whenever they may think the occasion requires it, call a special meeting of the stockholders.

SEC. 12. One third of the votes of all the stockholders shall at all times constitute a quorum to do business.

SEC. 13. The trustees shall meet when and where, and as often as they may deem necessary, and a majority of said board shall constitute a board for doing business: *Provided, however*, That in all cases where a meeting is held otherwise than on adjournment, the president shall give, or cause to be given notice of the time and place of the meeting to each trustee.

SEC. 14. Said trustees shall fill all vacancies occurring in their own offices of the company, until the annual meeting of the stockholders.

SEC. 15. The trustees shall report annually at the regular meeting of the stockholders the condition of such school, and give a detailed statement of the receipts and disbursements for the year preceding.

SEC. 16. There may be taught in said academy, any of the languages, sciences, fine arts, general literature, and such other branches and departments of education as the trustees may authorize.

SEC. 17. Said trustees shall annually appoint a board of directors of not less than three nor more than seven; whose duty it shall be, under the direction of the trustees, to examine the qualifications of the instructors, and examine the condition of the scholars who may attend said academy, at the commencement and close of each term, and oftener if thought expedient by the trustees, and report the same to the

trustees, who shall report annually at the regular meeting of the stockholders.

SEC. 18. The said trustees shall have power, at any time, to authorize the treasurer to receive, and by due course of law coerce the collection of any and all subscriptions to the capital stock, or any portion thereof, all tuition bills, or any other dues to said company by tax, subscription or otherwise, in the name of the corporation, together with costs of suit, in any court of competent jurisdiction; and in case any stockholder shall continue in arrears, his privileges as such shall be suspended; and said trustees in their discretion may declare the same forfeited after a lapse of twelve months: *Provided*, in no case shall any stockholder be liable beyond the amount of his subscription or an equal proportion with all or certain part of the other stockholders one the same.

SEC. 19. Jehosaphat Morris, Jonathan Huddleston, Pleasant Johnson, Anselm Butler, and Caleb W. Will, are hereby constituted legal trustees of the Dublin Academy and Jacob Vere, treasurer, to serve as such until the first Saturday in April next, at which time the stockholders shall have their first annual meeting for the purposes before mentioned. *Provided*, in no case shall the stockholders fail to have a meeting and to hold an election at the appointed time; the corporation shall not thereby be dissolved, but the officers of the company, then in office, shall continue in office until their successors are duly qualified. And in case the stockholders fail to hold an election on the first Saturday in April in each and any year, the board of trustees then incumbent may, by giving five days' public notice, call a meeting and hold an election for all the officers to be elected annually by the stockholders:

CHAPTER XXIII.

An Act to incorporate Goulding's Patent Bagging Manufacturing Company:

[APPROVED, JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Goulding, Isaac Thayer, Robert Wallack, Nathan Cutter, Andrew G. Low, Purdy Chamberlain, Charles L. Rowland, Samuel H. Patterson, William Leviston, and James Keigwin, and such other persons as may associate together, for the purpose of prosecuting the business of manufacturing hemp, flax, tow, manella, or sisal grass, cotton, wool, silk, or any one or more of them together with other fibrous materials, be, and they are hereby declared to be, a body politic and corporate, by the name and style of Goulding's patent bagging manufacturing company, by which name they shall have continued succession, and be entitled to the privilege of locating one or more manufac-

tories in any part of this state; they may sue and be sued, plead and be impleaded, contract and be contracted with; they may have and use a common seal, and the same alter or abolish at pleasure; they may purchase, hold, sell, and convey, property real and personal, so far as the same may be necessary for the business of said corporation.

SEC. 2. The capital stock of said corporation shall consist of one hundred thousand dollars in shares of five hundred dollars each, with the privilege of increasing the same to five hundred thousand dollars, should the interests of said corporation require it.

SEC. 3. The said John Goulding, Isaac Thayer, Robert Wallack, Nathan Cutter, Andrew G. Low, Purdy Chamberlain, Charles L. Rowland, Samuel H. Patterson, William Leviston and James Keigwin, or any three of them, are hereby constituted commissioners, and as such are authorized to open books, and receive subscriptions to said capital stock at such places and at such times as they may deem most expedient after the passage of this act, and so much of said subscription shall be paid in by the subscribers to said stock, at the time of subscribing therefor, as the said commissioners may direct; and so soon as twenty thousand dollars shall have been subscribed, the company may commence business.

SEC. 4. That so soon as twenty thousand dollars shall be subscribed to the capital stock of said company, the aforesaid commissioners shall proceed to order an election of five directors, who shall have the management of the stock, property, and affairs of said corporation, and said commissioners shall give at least fifteen days notice of said election, in some public paper printed at or nearest to the place where said manufactory or manufactories shall be located. The said directors shall be chosen from among the stockholders, and shall hold their office for one year from the time of their election, and until their successors shall be elected, and no longer.

SEC. 5. The stockholders in said company may vote by proxy, and shall be entitled to one vote for each and every share of stock he may hold, and should any vacancy occur in the board of directors by death, resignation, or otherwise, the remainder of said board shall have power to fill such vacancy; they may choose one of their number to act as president at the meetings of said board.

SEC. 6. A majority of said directors shall form a quorum to transact the business of said company, and may enact such by-laws, rules, and regulations, as they may deem expedient for the government of said company; *provided*, the same be not incompatible with the constitution and laws of this state and of the United States; and the said directors shall have full power to put into operation all the designs contemplated in this charter. They shall have full power to receive, and, if necessary, by due course of law, coerce the collection of any and all subscriptions to said capital stock of said corporation, together with costs of suits, and damages for such delinquencies.

SEC. 7. The said board shall have power to appoint all agents, servants, and officers, necessary to carry into effect the object of this charter; they may prescribe their duties, and require of them security

for the faithful performance of the same, and all such agents, servants, and officers, remove at pleasure.

SEC. 8. The stock of said company shall be assignable and transferrable, agreeable to such rules and regulations as the said board of directors may at any time make and prescribe.

SEC. 9. At least once every year the board of directors shall cause to be made out a full statement of the business and standing of said company, which statement and expose of the standing of said company, shall be laid before the stockholders at a regular annual meeting, which shall be fixed by the by-laws of said corporation; which reports of the proceedings, business, debts, and means of said company, shall be entered of record on books to be kept for that purpose, and shall at all times be open to the inspection of any person concerned in any respect with said company, either as stockholder or creditor.

SEC. 10. That all instalments required to be paid on the subscription of the capital stock of said company, after the election of directors, shall be assessed by said directors, of which assessment the said directors shall give at least ninety days notice in some public newspaper in the vicinity of said company, before said instalment so assessed shall be considered due; after which the said directors shall proceed to the collection of the same.

SEC. 11. Every six months the board of directors shall declare a dividend on the amount of the capital stock paid in and employed in business, payable in thirty days after the same shall have been declared to any person entitled to receive the same.

SEC. 12. This act shall continue for and during the term of thirty years, and shall take effect and be in force from and after its passage; but the Legislature reserves the right to amend or repeal the same by a vote of two-thirds of both houses: *Provided, however*, that the said company shall have three years to close their business after the repeal of the charter.

SEC. 13. That the stockholders in said corporation shall be individually liable in their private property for any and all debts contracted during the time any one of them was a stockholder; *Provided, however*, that before any individual liability shall attach, the property of the corporation shall first be exhausted, or execution legally returned no property found on which to levy; *And provided further*, that no stockholder shall, in any case, be liable out of his individual property beyond the amount of the stock by him subscribed and remaining unpaid.

CHAPTER XXIV.

An Act to incorporate the Greencastle Savings Institution and Manufacturing and Trading company.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That John Standiford, James M. Grooms, John Cogill, John F. Sellers, Daniel Sigler, John G. Tenent, Isaac Madkins, John C. Chiles, and Rees Hardesty, and their successors in office duly appointed or elected as hereinafter directed, be, and the same are hereby created and made a corporation and body politic for the term of thirty years from and after the first day of April next, who shall by the name and style of the Greencastle Savings Institution and Manufacturing and Trading company, be able and capable in law to hold and dispose of property as hereafter provided, and to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of law or equity, or in any other place whatever, and to receive and make all deeds, transfers, contracts, covenants, conveyances, and grants, whatsoever, and generally to do any thing necessary to carry into effect the provisions of this act and to promote the object and design of the corporation, and shall have power to make and use a common seal and the same to renew and change at pleasure.

SEC. 2. The capital stock of said corporation shall be one hundred thousand dollars, to be divided into shares of five hundred dollars each, to be subscribed and paid for by individuals, companies, or corporations under the direction of the above named persons, whose duty it shall be to give three weeks notice of the time and place of opening books for subscription in a newspaper published in the town of Greencastle; and it shall be the duty of the persons or corporations taking stock to pay at the time of subscribing for the same one hundred dollars on each share for which they shall subscribe.

SEC. 3. That the stockholders shall meet together in general meeting once in each year at such time and place as may be designated by the above named individuals, and by the director that may hereafter be appointed or elected, who shall at such meeting have power to pass such by-laws (not inconsistent with the constitution of this state) as to them may seem needful for the government of the directors and for the management and disposition of the stock, property, estate, funds, and business of the company. They shall at their first meeting appoint the time and place for the election of directors as also the number to be elected not less than five nor more than nine, and do such other business as to them shall seem proper for the promotion of the interest of said company.

SEC. 4. That the above named individuals shall be the directors of said corporation until others are appointed or elected and qualified under the provisions of this act.

SEC. 5. The directors of the Greencastle savings institution and trading company at their first meeting after the passage of this act, and at their first meeting after any annual election for directors under the provisions of the same, appoint one of their own body as president thereof who shall preside at all meetings and sign all contracts entered into by said company, which shall be valid, without a seal, and binding on the corporation; he shall hold his office until the next annual election, and until his successor shall be elected and qualified, and in case of his death, resignation, or absence the board shall appoint a president pro tem. for the time being. They shall fill all vacancies which may occur in their own body who shall hold their offices until the next annual election and until their successors may be elected and qualified. They shall appoint such clerks, secretaries, agents, and servants as may be necessary to transact their business, fix their salaries or compensations, and define their powers and duties; and the said officers and servants shall hold their respective situations at the pleasure of the board under such restrictions, regulations and limitations as they may prescribe.

SEC. 6. The election of directors shall be by ballot, and a plurality of votes received and counted in public under the inspection of three stockholders, shall be sufficient to elect; that every such election, and at all other meetings of the stockholders held under the provisions of this act, each person shall have one vote for each share of stock he may own at the time, and any stockholder not attending such election or other meeting of stockholders having a right to vote, may vote by proxy under such regulations as may be prescribed in the by-laws of said company; and should the stockholders fail to meet on the day appointed to elect their directors, it shall be lawful for them to meet on some other day under the provisions of their by-laws, and elect said directors, all of whom shall hold their offices one year from their general or annual elections, and until their successors shall be elected and qualified.

SEC. 7. The president and directors shall hold their meetings at stated times under their own regulations, and at such other times as the president for the time being shall order and direct, and the majority of the whole number of the directors shall form a quorum; and questions before the board shall be decided viva voce, by a majority of the directors present, any two of whom may require the yeas and nays on any proposition submitted, to be entered on the journal of their proceedings; and no vote shall be recorded [recinded] by a less vote than was given in favor of the resolution or order at the time it was adopted or made. They shall in the first week in January and July of each year, make out and declare such dividends of the profits resulting from their business as shall not impair or lessen their capital stock, and cause the same to be paid to the stockholders; *Provided*, that no such dividend shall be paid on any stock that has not been fully paid, but shall be passed to the credit of such stock as part payment thereof.

SEC. 8. Said directors shall make such by-laws, rules, and regulations (not inconsistent with the laws of this state and the by-laws of

the company), as they may deem necessary for the good government of the company, in which they shall prescribe the manner in which stock shall be transferred.

SEC. 9. That so soon as one hundred shares are subscribed and taken, and a board of directors organized, the stockholders shall pay and secure to the company the whole amount of their stock, such parts thereof to be paid in cash as the directors may require, and the balance to be secured in a note to the satisfaction of the directors; and if any stockholder shall neglect or fail to pay and secure the same as above required, within thirty days after being called upon by some one of the directors or servants of said corporation, either in person or by a writing left at his usual place of residence or put in the post office nearest where such stockholder resides, he shall forfeit the amount he has already paid, as well as the stock for which he has subscribed; and when the stock of the said company shall be paid and secured as above (and not before) the said company may commence business.

SEC. 10. Said company shall receive deposits of gold and silver coin, and bullion and moneys of every description, on such terms and such rate of interest as the parties may agree upon, and shall pay the same out agreeably to contract, on the demand of the depositor, and on the failure to do so, shall pay an interest of ten per centum per annum from the time of such demand, until the same shall be paid; and on judgments recovered on such contracts there shall be no stay of execution.

SEC. 11. It shall be lawful for said company to invest any part of their capital stock, money, funds, or other property in any public stocks [or funded debts, or in the stock] of any chartered bank or banks in this or any other state, and the same to sell or transfer at pleasure, and re-invest whenever, and so often as the situation of said company, or a due regard to the safety of its funds may require, or they may discount or loan the same on real or personal security for such periods of time and under such restrictions and limitations as the directors thereof for the time being shall deem prudent, and for the best interest of the company, provided that in the election of officers, no person shall have more than three votes.

SEC. 12. Said company shall not use or employ any part of the capital stock, money or other funds, in the purchase of goods, wares, or merchandize, nor shall they emit bills of credit as a circulating medium, nor in any manner engage in the business of banking, except to deal in gold and silver coin and bullion and bills of exchange.

SEC. 13. That it shall not be lawful for said company to hold any real or personal estate, except such as shall be necessary for the transaction of their business and such as shall be bona fide mortgaged, pledged or deeded in trust to them in the transaction of their business, and such as shall be purchased on judgments, decrees or orders, adjudged, decreed or ordered on transactions had with said company, or such as shall have been taken for a debt due to them in the transaction of their business. And said company may proceed on all mortgages, deeds of trust, pledges, and other securities for the collection of the same in the

same manner that natural persons proceed on such securities for the purpose of converting the same into money; *Provided*, That said corporation shall not hold real estate an unreasonable time, but shall sell all that may be taken as above as soon as they can conveniently turn the same into money, to the amount of the original debt and interest.

SEC. 14. That said company shall have power to insure all kinds of property against loss or damage and make insurance on life or lives, and take all kinds of marine risks whatever on the rivers or the seas, and to lend money on bottomry and respondentia, to cause themselves to be insured against any loss or risk they may incur in the course of their business, and to under write any foreign or domestic bill of exchange, bond, note, or obligation, and generally to do and perform all other matters and things connected with insurance of every description, in all of which business and transactions the said company may charge such rate of premium or interest as may be agreed upon by the parties.

SEC. 15. The said company shall not at any time, nor under any circumstances, loan money under cover or pretence of purchasing any bill of exchange, nor shall they purchase any note of hand or other legal liability, nor issue any certificate of deposit or any other paper or writing, which may be construed or made to answer the usual purposes for which the notes of the state bank or its branches, or any other banking institution are designed, or can be made to answer.

SEC. 16. It shall not be lawful for said corporation to place in the hands of any person or persons, directly or indirectly, any money or bank notes for the purpose of loaning or discounting paper, or under any pretence on discounting or engaging to discount any note or draft, unless the same be presented at its counter.

SEC. 17. That in all cases where execution shall issue against said corporation the same shall first be levied of the goods and chattels, lands and tenements belonging to said corporation as its joint property, and on a return of such execution of "no property found," or not a sufficiency of property to satisfy such execution, then and in that case the individual property of each of the corporators who were stockholders at the time the debt, demand, or liability accrued, shall be liable for said debt, but no execution shall issue against any stockholder in their individual character until a scire facias shall be issued against and served on them to appear, shew cause, if any they can, why execution shall not go against them, and upon such trial the stockholder may be permitted to plead that he was not a stockholder at the time of contracting such debt, demand, or liability, or that the corporation was not liable for said debt, or any other legal cause of defence.

SEC. 18. That the individuals who are incorporated as a body politic shall have full power to enter into a trading and manufacturing company, with full power to trade in merchandize or other articles not incompatible with the laws of this state, with a capital stock in addition to the amount as provided for in the foregoing provisions of this act, and be held under the same restrictions and regulations; *Provided*,

that any subsequent legislature may alter, amend, or repeal this charter by a vote of two-thirds of each branch thereof.

SEC. 19. It shall be the duty of said corporation to report annually to the general assembly the progress of its business.

This act to take effect and be in force from and after its passage.

CHAPTER XXV.

An Act to incorporate the city of New Albany, and to repeal all laws now in force incorporating the town of New Albany.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the county of Floyd as lies within the following boundaries, to wit: beginning on the Ohio river at the mouth of Falling run creek, thence up the centre of the channel of said creek to the bridge at the Boiling Spring, thence in a right line to the southwest corner of the Griffin tract, thence with the west line of said tract to the northwest corner thereof, thence with the north line of said tract to the northeast corner thereof, thence in a right line through Leonard's spring on the Shelby tract, and onwards until it meets with the produced line of the Jones' clay turnpike, thence southerly along said produced line, and the middle of said clay turnpike, to the Ohio river, and thence with said river to the place of beginning, extending across said river as far as the jurisdiction of said state extends; and the persons residing within said boundaries are hereby created a body corporate and politic, by the name and style of the City of New Albany, and by that name may have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended against, at law and in equity, in all courts and places, and in all matters whatsoever; contract and be contracted with, purchase lands, tenements and hereditaments, goods and chattels, and hold the same for the benefit of themselves and successors, or sell and convey them to other persons, have and use a common seal, and break and alter it at pleasure, and generally have and enjoy all the powers and privileges, and be liable to all the duties and obligations, of a municipal corporation; the exercise of the powers and the administration of the affairs of said city are hereby confided to one principal officer, to be styled the mayor, and a board of three persons from each ward of said city, to be styled the council, and such other officers as are hereinafter named and provided for.

SEC. 2. Said city is hereby invested with all the lands, tenements, and hereditaments, and their appurtenances, and all the goods and chattels, moneys, revenues, rights and demands, in possession or expectancy, accrued or to accrue of the town of New Albany, as fully as the same were held by said town; and said city shall be bound by all

contracts, and liable for all debts and demands, accrued or to accrue, in the same manner and to the same extent, as said town was or might be bound or liable; and all suits pending and all judgments recovered in any court, may be continued and prosecuted, and the benefits thereof recovered, as effectually in the name of said city, as they could have been in the name of said town, if this act had not been passed.

SEC. 3. Said city is hereby divided into four wards, as follows, to wit: the first ward shall include all that part which is between the eastern boundary of the city and the alley between upper Third and upper Fourth streets, and the line of said alley produced to the northern boundary of the city; the second ward shall include all that part which is between the first ward and State street continued along the Vincennes road to said northern boundary; the third ward shall include all that part which is between the second ward and lower Third street, and the line thereof produced to said northern boundary; and the fourth ward shall include all the remaining part of the city; and the mayor and council are hereby authorized to change the number and boundaries of said wards as the public convenience shall require, always endeavoring to equalize, as nearly as may be, the population thereof respectively.

SEC. 4. The mayor of said city shall be elected by the qualified voters thereof, on the first Monday of May next, and on the first Monday of May biennially thereafter; and shall hold his office for the term of two years, and until his successor shall be elected and qualified, and have such qualifications as are herein required for councilmen; he shall preside and have a vote in the council, and it shall be his especial duty to see, at all times, that the laws and ordinances of the city, and the criminal laws of the state, are duly observed and enforced in the city, and that all officers thereof promptly and properly discharge their respective duties, and to cause all persons guilty of a breach of any such laws or ordinances, or neglect of any such duty, to be immediately prosecuted and punished therefor; and for this purpose he shall be a conservator of the peace within the city, and may suppress all riots and disorderly meetings, and may arrest all felons and other offenders in the city, in the same manner as other peace officers, and take them before any court having competent jurisdiction for trial, and may command all necessary assistance therefor; he shall sign all commissions, license, and permits, granted by authority of the city; perform all such duties, and exercise such powers, as from time to time may be confided to him by the laws or ordinances of the city, or may otherwise pertain to the office of mayor.

SEC. 5. Three persons for each ward of the city shall be elected on the first Monday of May annually, as councilmen, who shall have resided two years within the limits of the city, shall have been freeholders therein for the year next preceding, and shall be resident of the ward for which they shall be elected, and qualified voters of the city; the persons thus elected shall constitute the council, shall continue in office one year, and until their successors shall be chosen and qualified, and a majority of their number shall be necessary to do business;

in the absence of the mayor, they shall elect one of their own number to preside in their meetings; the mayor and council shall appoint a qualified voter of the city to be clerk, who shall keep a correct record of their proceedings, (which shall be open to the inspection of any citizen,) and shall perform such other duties as the mayor and council may lawfully require of him; the mayor and council shall be judges of the elections and qualifications of themselves and all other officers of the city; they shall meet upon their own adjournments, and determine the rules of their own proceedings, which shall be always open to the public.

SEC. 6. The mayor and council shall appoint, or shall provide by ordinance, that the voters of the city shall elect on or before the first Monday of May, all assessors and collectors of taxes, treasurers, marshals, and all other necessary officers of the city, whose appointment or election is not otherwise provided for herein, and all such officers shall have the same qualifications as are required herein to be a voter of the city, and where it shall not be otherwise provided for in this act; all city officers shall continue in office one year and until their successors shall be appointed and qualified, and shall take an oath or affirmation for the faithful discharge of their respective duties, give such bond and security, and perform such duties, as the mayor and council shall, from time to time, require; and the mayor and council shall prescribe such rules, and with such penalties, as they shall deem necessary for the punctual and efficient discharge of their own duties respectively, and the duties of all other officers of the city; and they may, three-fourths of the council concurring, remove from office the mayor, any councilman, clerk, assessor, collector, treasurer, marshal, or other officer of the city, giving the accused party ten days previous notice of the reason therefor, and entering the same on the records of their proceedings; and each councilman, the marshal, market master, and wharf master, shall be conservators of the peace within the city, and for such purpose shall have the same authority to make, arrest, and command assistance, as is hereinbefore given to the mayor.

SEC. 7. Whenever the office of mayor, councilman, clerk, treasurer, marshal, collector, or other officers of the city, (except that of recorder,) shall become vacant, the mayor and council, or the latter, in the absence of the mayor, shall as soon as may be, appoint some suitable persons with the requisite qualifications, to fill the vacancies; and the persons so appointed shall take such oath or affirmation, and give such bond and security, as aforesaid, and continue in office for the remainder of the term for which his predecessor was chosen or appointed; and the mayor and council shall cause the names of those voting for, and those voting against, such appointment, to be entered on the record of their proceedings.

SEC. 8. Every white male citizen of the state, above the age of twenty-one years, sane, not a pauper, and not in arrear to the city for any poll tax, and who shall have been a resident within the limits of the city one year next preceding, shall be entitled to vote at all city elections, in the ward where he shall reside.

Sec. 9. The mayor and council shall have power to assess annually, against each male inhabitant of the city, who shall be twenty-one years of age, sane, and not a pauper, a poll tax not exceeding fifty cents; and upon all lands, tenements, and hereditaments, goods and chattels, rights and credits, (excepting such as shall be especially exempt from taxation by the statute, entitled, 'an act to provide for an equitable mode of levying the taxes of this state, approved, February 7th, 1835,') which are within the city, such ad valorem tax, as they shall from time to time, deem necessary to defray the expenses of the city: *Provided*, such assessment of tax shall not exceed one per cent., or one dollar on each hundred dollars worth of property so assessed; the clerk, on or before the first Monday of February annually, shall make and deliver to the assessor, a copy of the assessment roll of the previous year, with a precept under the seal of the city, commanding him, in the name of the city, to make and return to the mayor and council, on or before the first Monday in May then next, a complete list of all persons liable to the poll tax as aforesaid, and of all lands, tenements, and hereditaments, goods and chattels, rights and credits, liable to be taxed as aforesaid, with the name of the owner thereof, (if known,) and a just valuation and certain description of said property; the assessor shall execute and return said precept according to the command thereof, stating therein the names of the persons respectively liable for such taxes, in alphabetical order, and every such assessment shall be made, or taken as if made, on the first Monday of April in each year, from which time the taxes of the current year shall be a lien upon the property so assessed, and a charge against the then owner thereof, until such taxes shall be paid; but, for the present year, the mayor and council shall cause such taxes to be assessed as nearly as possible in the manner aforesaid, without regarding, however, the precise times stated aforesaid; *Provided, however*, That an extra tax shall be levied and collected, from year to year, on the real and personal property, or other article or thing authorized to be taxed by this act, within the present incorporated limits of said town of New Albany, sufficient to pay the present liabilities of said town; and, thereafter, when said debts are so paid, all taxes and assessments shall be equal in all parts of the city; *Provided, further*, That said mayor and council shall exempt from taxation a certain lot or parcel of ground, together with all improvements thereon, now belonging to, and occupied by, one E. P. Jones, known by the name of Mountpleasant, being nine hundred feet by five hundred and sixty, including one sixty foot street and one twenty foot alley, for and during the natural life of said E. P. Jones; *And provided further*, That if the present possessors and claimants of the tract of land commonly called the Whitehill tract, (being letter C., No. 28, in Clark's grant,) shall be turned out of possession, or ousted of their claim in three years from the date of the first assessment of taxes under this act, then said city shall refund to said possessors and claimants all taxes paid by them on said tract; retaining a lien, however, on said tract against the rightful owner, for all taxes so refunded.

Sec. 10. On the second Monday of May annually, or as soon after as practicable, (but this present year as soon after the assessment roll be returned as practicable) the mayor and council shall determine the amount of the poll and the rate of the ad valorem taxes for the year; and the clerk shall thereupon make and deliver to the collector, as soon as practicable, a list in alphabetical order of the persons named in the assessment roll, and the amount of the taxes of the current year and delinquent taxes of the preceding two years, charged against each, specifying whether the tax is a poll or property tax, and if the latter, concisely describing the property; with a precept under the seal of the city, commanding the collector in the name of the city to collect the taxes charged in said list, by demanding payment of the persons therein charged, or by distress and sale of their respective goods and chattels, or of lands, tenements, and hereditaments described in said list, and to return said precept and list to the mayor and council and pay over the money so collected to the treasurer, on or before the first Monday of November then next.

Sec. 11. The collector shall execute and return said precept according to the command thereof; and he shall specify in his return, what taxes have been collected by distress and sale, the property sold, the price for which it sold and the name of the purchasers, and what taxes remain unpaid and the cause of their non-payment; and he shall make oath that his return is just and true to the best of his knowledge and belief, which oath shall be annexed to his return, the collector shall also report to the mayor and council all omissions and other errors in the assessment and tax rolls, which shall have come to his knowledge, and the mayor and council shall at all times have power to correct any assessment or tax roll, by adding to or subtracting from as to them shall seem right, and to refund any moneys and make any other just restitution for taxes wrongfully assessed and collected.

Sec. 12. The collector on or before the fourth Monday of July, shall demand payment of the taxes respectively of the persons charged therewith, or at their most usual residence, if they have any in the city; and on payment to him of any tax, he shall give a receipt therefor specifying the year and amount of the tax, if any tax shall remain unpaid sixty days after such demand, or where no demand could be made by the day aforesaid, shall be unpaid on the fourth Monday of September, the collector shall collect the same by distress and sale at auction, of the goods and chattles of the person charged therewith and found in the city, or the goods and chattles found on the lands, tenements, and hereditaments on which such unpaid tax was assessed, returning the overplus if any to the owner; giving ten days previous notice of such sale by written advertisements put up in three of the most public places in the city.

Sec. 13. If no goods or chattles shall be found, out of which to make the taxes charged on any lands, tenements, and hereditaments, or being found and sold shall be insufficient to satisfy such taxes, the collector shall seize such lands, tenements, and hereditaments, and after having given three weeks general notice of the sale, in a new-

paper published in the city, he shall at the market house in the city, on the fourth Monday of October, between ten o'clock in the forenoon and five o'clock in the afternoon, and thence from day to day as long as shall be necessary, sell at public auction for cash, the least interest in said lands, tenements, or hereditaments, which will satisfy the taxes charged thereon and the costs of sale, and the taxes and costs being paid by the purchaser, the collector shall give to him a certificate of such sale, signed and sealed by himself, stating particularly the property sold, the amount sold for, the amount and year of the tax, and the purchaser's name; said certificate shall be recorded by the clerk in a book kept for that purpose, within sixty days after its date; the collector shall charge one dollar in the cost of sale, of which he shall keep seventy-five cents for making, and pay to the clerk twenty-five cents for recording the certificate; and if all proceedings relative to the tax and sale shall have been regular, such certificate shall vest in the purchaser and his representatives and assigns an indefeasible title to the interest so purchased in such lands, tenements, or hereditaments, and the certificate shall be prima facie evidence of such regularity; but any person interested in the lands, tenements, or hereditaments so sold may redeem the same at any time within ten years after such sale, by paying to the purchaser or to the clerk of the city, for the purchaser's use the amount for which the same was sold, with one hundred per cent. thereon, and ten per cent. per annum of interest on the purchase money; and the estate conveyed by such certificate shall be wholly avoided by such payment, yet the purchaser, his representatives and assigns, shall not be liable to account for the use and occupation of the lands, tenements, and hereditaments between such sale and redemption; and they shall have the right to remove all improvements made by them within such period.

SEC. 14. The mayor and council shall have power to lay out, make, alter, grade, pave, and repair all such streets, side-walks, alleys, market spaces, and other public improvements of the like kind within the city, as they shall from time to time think proper, and have the exclusive supervision thereof; and they may collect in money or labor, as they shall choose, an annual tax of not more than one dollar from each person in the city, liable to pay a poll tax, which shall be exclusively appropriated, to the making and improving of the streets, side-walks, and alleys of the city; if any person shall be injured, in his buildings or grounds, by making, altering, or opening of any street, side-walk, alley, or other public improvement, made in the city by the order of the mayor and council, he shall be paid a just compensation therefor out of the city treasury; which shall be ascertained by three disinterested freeholders, one shall be chosen by the mayor and council, one by the party injured, and the third by the other two, who or either two of them shall make their award in writing and under oath, and give notice thereof to the parties within ten days after notice of their appointment; from which award either party may within twenty days notice thereof, appeal to the Floyd circuit court by filing therein a bond with such penalty and such security as the clerk of said court

shall determine, conditioned to prosecute such appeal to effect; or either party may in the first instance, file a petition in said court concisely stating the facts of the case, and praying that damages may be assessed; and in either case the suit shall be tried by a jury, unless the parties shall agree that the court shall try it; but no other question shall be determined than the regularity of the proceeding in the suit; and the amount of damages sustained, and so long as the mayor and council shall not be guilty of an abuse of their power, in making any such improvement, or doing any other acts, or not be guilty of gross neglect, they shall not be personally liable to any action therefor, nor shall the city be liable therefor otherwise than in the manner aforesaid, nor shall the mayor and council be prohibited or delayed in proceeding with such improvement or in doing any lawful act.

SEC. 15. In all cases of public nuisances, of whatever kind, the mayor and council, after reasonable notice to the party guilty thereof, and his neglect to abate the same, may cause the same to be abated, and sue such guilty party in any court of competent jurisdiction, and recover a full compensation for the expenses of such abatement; and if such expenses shall be incurred in the draining, filling up, or otherwise repairing of any ground in the city, they shall be a lien upon such ground, and may be enforced accordingly by the mayor and council.

SEC. 16. The mayor and council shall have power to grant or refuse a license to all retailers of spirituous liquors by a less quantity than a quart, keepers of taverns, inns, ale, porter, and coffee houses and shops, and all other houses of public entertainment or drinking, to all persons wishing to exhibit for gain any animal, wax figure, or other natural or artificial curiosity, or any feats of horsemanship, circus riding, tumbling, vaulting, rope or wire dancing, legerdemain, ventriloquism or other feats of agility; and in granting such license it shall be lawful for the mayor and council to require that such sum of money shall be paid therefor, and to prescribe such conditions and regulations of the use thereof, as to them shall seem right; and for a violation of such conditions and regulations, the mayor and council may, in their discretion, suspend or revoke such license, and if any person or persons without having obtained such license, shall keep any such house, inn, or shop, or sell by retail any such liquors, or exhibit any such show for gain, in the city, he, she or they, and all aiding and assisting him, her, or them therein, shall severally forfeit and pay for each offence, a penalty of not less than ten nor more than fifty dollars for the benefit of the city.

SEC. 17. The mayor and council shall have power to make and repair all necessary wharves, piers, docks, landings, and other improvements of the like kind along the Ohio river and in the city, and to fix the rates of wharfage and other fees for the use of the same, and have the exclusive supervision and regulation thereof, and such wharfage and fees shall, until paid, be a lien upon the boat or other craft, goods or other property, on account of which the same accrued, and if payment thereof shall, after demand, be refused, such boat, craft, goods or other property, may be proceeded against by attachment, whether the

owners thereof be known or not, in the manner and subject to the provisions prescribed in the act entitled an act authorizing the seizure of boats and other vessels, approved, February 17th, 1838.

SEC. 18. The mayor and council shall have power to borrow money and pledge the faith, property and revenues of the city therefor; but no amount beyond the revenue of the current year shall be borrowed, without the concurrence of two-thirds of the council; to establish a board of health for the city, and invest it with such powers, impose upon it such duties and prescribe for it such regulations, as shall best secure the city from contagious and infectious diseases, and make all other provisions, and do all other things, necessary to the public health; to procure fire engines, hose and other apparatus against fires, establish and organize fire and other companies, and make all proper regulations for their government; and for that purpose to make such abatement of the poll and other taxes of firemen as shall be reasonable, and all firemen shall be exempt from serving on any jury; to prohibit and prevent the erection of any wood building or wooden addition to any building, which shall not be more than one story high, in such parts of the city as ought not to be endangered thereby; to compel the citizens to provide themselves with fire buckets, and assist in the extinguishment of fires, to regulate the sweeping and burning out of chimneys, the storage of gunpowder and other combustible and dangerous articles, and take all other usual and proper measures for preventing or extinguishing fires; to sink wells and cisterns, and supply the city with wholesome water; to provide for lighting the streets of the city; to establish a city watch, with power in the watchmen to arrest all persons found within the city violating any of the criminal laws of the state, or penal ordinances of the city, and take them before the recorder or magistrate for examination; to regulate or prevent the interment of deceased persons within the city, and purchase, hold and regulate burying grounds without the city: *Provided*, That nothing in this section shall be so construed as to interfere with the family burial lot of Preston F. Tuley, as marked on his recorded plat of the enlargement of the town of New Albany; to abate and prevent the erection of all nuisances, define and declare what shall be a nuisance, and prevent by fine the exercise of all noxious or offensive trades within the city, or within any part thereof; to establish markets and market places, and regulate the buying and selling of articles usually sold in market; to appoint measurers, weighers, gaugers and inspectors, for ascertaining the quality and quantity of flour, meal, beef, pork, and other provisions; coal, wood, lumber, hay, and other articles for market, and the accuracy of weights and measures, and fix the fees of such officers; to license and regulate porters, carts, wagons, hacks, and other vehicles, plying in the city for hire, fix the prices therefor, and prohibit those not licensed; to license auctioneers and regulate auctions, except in case of auctions authorized by the general laws of the state; to prohibit and prevent hogs, cattle, horses, and other animals from running at large in the city, to assess an animal tax on the owners or keepers of dogs within the city; to suppress gaming houses and houses of ill

fame, and punish the persons who shall keep them, and to preserve good order and the public peace by preventing intoxication, immorality, lewdness, idleness, vagrancy, quarrelling, fighting, rioting, and other disorderly conduct within the city, and punish those guilty of such conduct therein; and the mayor and council are hereby authorized to make all by-laws, ordinances, and regulations, necessary or proper to carry the foregoing and all other powers granted by this act, into full effect.

SEC. 19. Whenever the persons owning, jointly or severally, the first estate of inheritance equal to two-thirds of the whole front, owned by residents of the city, on any street or alley or section thereof, shall by petition represent to the mayor and council that they are desirous of having such street or alley or section thereof, graded, paved, or otherwise improved or lighted at the expense of the owners of lots fronting on such proposed improvement, and shall show therein particularly what lots or parts of lots are owned respectively by the petitioners, the mayor and council shall cause such petition to be recorded, and such improvement to be made as nearly according to the prayer of the petition as shall be consistent with the general plan of improving the city, and without rendering the city liable for any other expense than the making such improvements at the intersections of the streets and alleys and the superintending the work; all the other expenses the mayor and council shall assess upon the lots fronting on such improvement, in proportion to their number of feet thereon; and such assessment, with the names, if known, of the owners of the lots, shall be recorded; and the clerk shall forthwith make out a copy thereof and hand it to the marshal with a precept under the seal of the city commanding him to collect such assessment by demanding payment thereof from the owners, or by distress and sale of the lots according to exigency, and to return said assessment and precept to the mayor and council, and pay over the moneys so collected to the treasurer, within three months from the date of said precept; and the marshal shall forthwith demand payment of such owners, who reside in the city, and give notice to those who are non-residents or unknown, by publication in a newspaper of the city, concisely stating in such publication, and demand the names of the owners, if known, the numbers of the lots, or the parts thereof, and the amount of the assessment, and that unless the assessments shall be paid, the lots or parts thereof will be sold to satisfy them; any person aggrieved by such assessment, may appeal therefrom to the Floyd circuit court, within thirty days after such demand, or publication, by filing his bond in said court, in such penalty and with such security as the clerk of said court shall determine, condition to prosecute his appeal to effect and pay the amount which may be adjudged against him; and all assessments not so appealed from, shall be conclusive upon the owners; and unless paid, the marshal shall collect them by giving such notice, selling such interest, and giving such certificate of sale, as are prescribed in the thirteenth section of this act; and such certificate shall be recorded and have like effect, and be subject to like redemption as are therein stated, and the mo-

ney paid or collected on said assessment shall be appropriated for the payment of the expense of such improvement or lighting.

SEC. 20. The mayor and council shall have power to erect all buildings which they may deem necessary, and when the public good shall require it, to erect a city prison, and regulate the management and police thereof, and the marshal shall be the keeper thereof, and have the same authority, and be subject to the same liability as such, that sheriffs have and are subject to as the keepers of county jails; *Provided*, that until such prison shall be ready for the reception of prisoners, the said city shall be allowed the use of the jail of Floyd county for the confinement of all such persons as may be convicted before the recorder, and who shall be liable to imprisonment under the laws of this state, or ordinances of said city; and all persons so imprisoned shall be under the charge of the sheriff of the said county of Floyd, who shall receive and discharge such persons in and from said jail in such manner as shall be prescribed by the ordinances of said city or otherwise by due course of law.

SEC. 21. All moneys of the city raised, collected, or received, by means of taxes, licences, penalties, or otherwise, shall be paid into the treasury, and shall not be drawn therefrom except by the authority of the mayor and council; and the mayor and council shall cause all demands in favor of and against the city, to be adjusted and paid as speedily as possible; and shall require all officers and agents entrusted with the keeping or expenditure of moneys of the city, at such short intervals and in such manner as they shall direct; and they shall annually publish in a newspaper of the city a summary statement of the receipts and expenditures of the city, and of all debts due to or from the city: *Provided*, that all fines assessed by the recorder of the city for any offence or offences against the penal laws of this state shall when collected, be forthwith paid over to the trustees of the county seminary by said recorder.

SEC. 22. The mayor, or a majority of the council, may call special meetings of the mayor and council whenever they shall judge it expedient, by giving notice to the other councilmen who shall at the time be in the city; the mayor, and in his absence the president pro tempore of the council, shall sign the records of their proceedings, and a copy of the record so signed, certified by the clerk and under the seal of the city, shall be competent evidence in any court in this state; no by-laws and ordinances of a penal nature shall be passed by the mayor and council without being publicly read twice, and the vote upon the final passage thereof shall be by ayes and noes, and entered on the record; and all such by-laws and ordinances shall not be in force until a copy thereof certified by the clerk under the seal of the city shall have been published ten days in one or more newspapers of the city.

SEC. 23. On the first Monday of May next, and biennially thereafter, a recorder of the city shall be elected by the qualified voters thereof, having the same qualifications as are required for mayor; the mayor shall certify to the Governor the name of the person chosen

recorder, and the Governor shall issue to him a commission as such recorder; he shall take an oath or affirmation that he will support the constitution of the United States, and that of the state of Indiana, and faithfully to discharge the duties of his office, and give bond to the state of Indiana in the penal sum of one thousand dollars with security, to be approved by (and said bond to be filed with the) clerk of the Floyd circuit court; in case of a vacancy in the office of recorder, the mayor and council shall appoint a time for, and give twenty days notice in one or more newspapers of the city, of the election of a successor.

SEC. 24. The recorder shall have the same jurisdiction and power in both civil and criminal cases, which justices of the peace have, if the causes of action or of complaint shall have arisen, or the defendants or one of the defendants shall be found in the city; and he shall have jurisdiction of all cases for the violation of any by-law or ordinance of the mayor and council, he shall also have the same power to issue all process for carrying the jurisdiction into effect, shall proceed in the same manner, and be entitled to the same fees, as justices of the peace; he shall keep a docket, which in all respects shall have the same effect as the docket of a justice of the peace, and a copy therefrom, certified by the recorder under his seal, shall be competent evidence in any court in this state; and the parties to any suit before him shall have the same right to a change of venue, to a trial by jury, and to an appeal, as if the suit was pending before a justice of the peace; as soon as such recorder shall be qualified, the docket and files of the recorder of the town of New Albany shall be delivered to him, and he shall hold and act upon the same, as a justice of the peace holds and acts upon the docket of his predecessor in office, he shall be a conservator of the peace within said city and hold his office two years and until his successor shall be elected and qualified.

SEC. 25. It shall be the duty of the marshal to serve and return all process directed to him by the recorder, and his power for this purpose shall be co-extensive with Floyd county, he shall attend all trials before the recorder, receive the same fees for services and do the same duties in like cases as constables; in case of the absence or inability of the marshal, the recorder may direct process to any constable of the New Albany township, who shall serve and return the same; the marshal may appoint one or more deputies, in the same manner and subject to like responsibilities as sheriffs.

SEC. 26. The first election under this act shall be held on the first Monday of May, 1839, at such places in the respective wards as the president and trustees of the town of New Albany shall have appointed; the qualified voters assembled at each of those places appointed, at ten o'clock in the forenoon of said day, shall appoint viva voce from among themselves a person to be inspector, who shall be sworn, and take to his assistance two qualified voters to be judges, who shall also be sworn; the inspector and judges shall appoint two clerks who shall likewise be sworn; thereupon the inspector and judges shall proceed to receive votes by ballot for mayor, recorder, marshal, treasur-

er, and three councilmen for the ward; and the clerks shall keep a list of those who vote; the polls shall be kept open until six o'clock unless the inspector and judges shall after four o'clock, (and after proclamation that the polls will be closed if no vote shall be offered in fifteen minutes) choose to close sooner; the counting of the votes may commence at any time after four o'clock in the afternoon but not in earlier; and it shall be the duty of the inspector and judges to make out a certificate of the result of the election, in their respective wards, seal it up and hand it with the clerk's lists, tally papers, and the ballots, to the president of the town of New Albany, within twenty-four hours after the closing of the polls; the president and trustees of the town of New Albany shall meet at their usual place of meeting on the Wednesday next succeeding the election, at three o'clock in the afternoon, and after inspecting and comparing the returns, declare the result, and their clerk shall notify each person of his election; the mayor and councilmen shall meet at the same place on the next Monday, at three o'clock in the afternoon, and be sworn into office; and thereupon the president and trustees of the town of New Albany shall deliver to the mayor and council, all records papers and property in their or their clerk's hands pertaining to said town, previous to all elections thereafter; the mayor shall by proclamation, issued ten days before the day of election, notify the qualified voters to meet at such places in their respective wards, as shall be appointed for holding elections, for the election of such officers, (naming them) as are then to be chosen, which elections shall in all respects be conducted as hereinbefore directed; but the mayor and council are authorized to appoint the inspector and judges for such elections; the inspector and judges shall certify the returns of elections to the mayor, and the mayor and council shall meet within five days after such elections, inspect and compare the returns and declare the result, and cause the persons elected to be notified thereof; and on the second Monday of May deliver over to their successors all records, papers, and property in their hands to their successors.

SEC. 27. The times hereinbefore stated, where elections shall be held, are directory only, and no election, regular in other respects, shall be void because not holden on any particular day; and the mayor and council may appoint any other day than the first Monday in May, for holding the elections.

SEC. 28. This act shall be a public act, and be judicially noticed, and liberally construed by all courts in this state, and in pleading, it shall not be necessary to recite the by-laws or ordinances of the mayor and council; but it shall be sufficient to refer to their date, title, and section; the rights and privileges herein granted, shall not be taken away or affected, by any law hereinafter made, unless the corporation hereby created, shall be expressly named therein, and the fact of any person being a citizen of the city of New Albany, shall not render such person incompetent to be a witness in any suit to which the city may be a party.

SEC. 29. This act shall be in force from and after its publication

in the New Albany Gazette, and New Albany Argus, so far as to authorize an election on the first Monday in May, 1839; and upon the qualification thereafter, of the mayor and council, it shall be completely and fully in force; and from that time, the act entitled, an act to incorporate the town of New Albany, approved, February 6, 1836, and all other acts coming within the purview of this act, are hereby repealed: *Provided however*, that the legislature shall, at any time, have the right to repeal, alter, or amend this charter, by a vote of two thirds of the members.

CHAPTER XXVI.

An Act to incorporate the Richmond and Boston Turnpike company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana,* That Robert Morrison, Joseph Pyle, James R. Mendenhall, Robert Hill, Irvin Reid, William Scarce, William Hill, Jason Ham, David S. Evans, Benjamin Fulghum, Daniel D. Sloan, Philip Lybrook, Enoch Railsback, Alexander Grimes, and Daniel Clark, and their successors in office, duly elected as hereinafter directed, are hereby constituted a body corporate and politic, and known by the name and style of the President and Directors of the Richmond and Boston Turnpike company, shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatever, to make and use a common seal, and the same to alter, change, or renew at pleasure, and shall be able and capable at law to make contracts, and enforce the same, and to make and enforce the necessary by-laws, rules, and regulations, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the state of Indiana.

SEC. 2. The capital stock of said company shall not be more than one hundred thousand dollars, nor less than fifty thousand dollars, divided into shares of fifty dollars each.

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as they may agree on, and organize said corporation by electing one of their own body president, and after such organization a majority of said directors shall have full power to carry into effect the object of this act until an election shall be had by the stockholders, in accordance with their by-laws for their directors.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, superintendents, surveyors, engineers, artists, and all other officers and persons necessary to carry into effect the object of this act; they shall keep a journal of their proceedings, in which shall be

entered all by-laws, rules, and regulations, and all orders for the payments of such allowances as may be made to their officers and others in their employ; which journal shall be read from time to time by the board, and if found to be correct, to be signed by the president. They may sit on their own adjournments or on the call of the president; when the president is absent they may appoint a president pro tem.; they may fill all vacancies which may happen in their own body.

SEC. 5. The directors shall have charge of the stock books of said company, with full power to receive subscriptions to said stock, and collect the same at such places in Wayne or Union county, and at such time or times as they may appoint, after six weeks notice in some newspaper near said work, in such amounts as they may think best, for the interest of the work, not exceeding in amount one fifth part of such subscription in each year.

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate body, for the agent of any county, for the agent of any state, or the United States on behalf of the same, to subscribe for any amount of capital stock, and the books shall be kept open for such space of time and at such places as the corporation shall choose, and may be re-opened at any time; and they may by an agent, offer for sale in this or any other state, any amount of stock, upon such terms and conditions as may be thought advisable; and they shall have power, on their own credit, to borrow money on such terms as may be agreed on by the parties.

SEC. 7. It shall be lawful at any time within five years after the passage of this act, or so soon as fifty thousand dollars is subscribed of the capital stock, for the directors herein appointed, or a majority of them, to meet or organize, and commence operations on said work; and it shall be the duty of the company in good faith to commence the construction of said road within five years from the passage of this act, and to complete the same within twenty years, on failure of which, this charter shall be forfeited.

SEC. 8. The corporation by their agents, shall have full power, from time to time to examine, survey, and locate the route for a turnpike road, commencing at the town of Richmond, in Wayne county, and running on the best ground for the interest of the corporation, and convenience of the public, via Boston, in the said county of Wayne, to a point on the line dividing the states of Indiana and Ohio, where the Hamilton, Rossville, Dartown and Fairhaven turnpike of Ohio shall intersect said state line near Lybrook's, in Union county.

SEC. 9. It shall be the duty of the directors at their first meeting, or within three months thereafter, to call, by advertisement, for such portion of the first year's instalment on the capital stock as they may deem proper.

SEC. 10. Certificates of stock shall be given by the stockholders, which shall be evidence of the stock held; they shall be signed by the president, counter-signed by the clerk; the stock shall be transferable only on the books of the corporation personally, or by an agent, or attorney, or by the administrator, executor, trustee, or guardian; but

such stock shall at all times be holden by the corporation for any dues from the holder thereof to the corporation, or for any sum that may thereafter become due on a contract made prior to such transfer.

SEC. 11. The directors shall advertise a meeting of the stockholders within three months after their first meeting to elect nine directors to act as such for the space of one year thereafter, and until their successors are elected and qualified into office.

SEC. 12. All elections after the first, shall be held on the first Monday of April, annually; each person owning stock in said company shall be allowed to give one vote for each share so owned, (for one month previous to such election); owners of stock may vote by proxy or by legal representatives. Two stockholders who are not directors, shall be appointed by the board previous to each election, who shall act as judges of such election; give certificates to those who receive the highest number of votes, informing them of their election; and it shall be the duty of the directors elect to meet and organize within three days after such an election; but if circumstances should transpire to prevent such an election, on the day appointed, the directors shall appoint another day for such purpose.

SEC. 13. And for making the necessary examination and location, it shall be lawful for the corporation, by their agents, and persons in their employ to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road; but no such material shall be taken away from any land without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid or secured to the owner.

SEC. 14. It shall be lawful for the corporation either before or after the location of any section of said road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of said land as may be necessary for the construction and location of said road, as also the stone, gravel, timber, or other materials, that may be obtained on said route, and may contract for such materials as may be obtained on any other land near thereto; and it shall be lawful for said corporation to receive by donation, gifts, grants, or bequests, land, money, labor, stone, gravel, or other materials, for the benefit of said corporation; and all such gifts, grants, donations, relinquishments, or bequests, made and entered in writing, by any person or persons capable in law to contract, made in consideration of such location and for the benefit of the corporation, shall be binding and obligatory, and the corporation may have their action at law or equity in any court of competent jurisdiction, to compel the observance of the same; *Provided*, that all such contracts, donations, relinquishments, &c., shall be fully and plainly made in writing, and signed by the party making the same.

SEC. 15. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county

where such difficulty may occur, that such facts do exist, and such justice, shall thereupon summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall appoint five disinterested freeholders, of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land and such materials as the corporation may actually need, and after having taken into consideration, the advantages as well as the disadvantages the road may be to the same, report thereon, whether the person is entitled to damages or not; and if so, how much, and shall file such report with such justice, whereupon said justice shall enter judgment thereon, unless for good cause shown; and if either party show good cause, why judgment shall not be entered, the justice may grant a review of the premises, either with or without cost, and in all cases where owner or owners of such land or materials, shall be minors, insane, or reside out of the county where the land may lie, such justice shall cause three public notices, posted in three public places, within said county, of such application, for three weeks previous to the day appointed for selecting viewers of such premises, at which time, the justice, (unless good cause be shown,) shall proceed as if the owner had been duly notified to attend, and on such judgment being rendered, and the corporation complying therewith, by paying such costs or damages awarded against them, the corporation shall have the exclusive use of the land over which said road is located, and for which said damages had been assessed; and the right to take such timber, gravel, and the materials for the construction of said road, as may be so as aforesaid allowed for in damages, using due diligence to remove the same, with as little damage to the owner as possible: *Provided, however,* That either party to said proceedings provided for by this section, shall have the right to appeal, from the judgment of the justice in the premises, to the circuit court in the proper county, within three months from said decision; on the trial of which appeal in the circuit court, either party may have the same tried by a jury of the country as in other cases, appealed from a justice of the peace.

SEC. 16. That if it shall be necessary, and advantageous to the location, and construction of said road, the corporation shall have the right to lay the same along and upon any state or county road: *Provided, however,* before such location shall be made, the corporation shall make application to the county commissioners of the proper county, for such right, and such commissioners are hereby vested with power to grant the same, by an order entered on their records.

SEC. 17. That when said corporation shall have procured the right of way, as herein provided, they shall have the exclusive use of such land, and shall have the sole right of occupancy in the same, and no person, body politic, or corporate, shall in any way interfere, molest, disturb, or injure any of the rights and privileges hereby granted.

SEC. 18. The corporation may charge and recover, by due course of law, two per cent. per month for any money not paid in on subscription to the capital stock, together with costs of suit, when called on, as prescribed in the fifth section of this act.

SEC. 19. The corporation may charge and recover such toll from all persons travelling on said road, for the privilege of driving all manner of live stock, waggons, and teams, pleasure carriages, sleighs, &c. or any part of it as shall be for the interest of the company, and the same to charge lower, or raise at pleasure: *Provided,* that the rates be posted up in some conspicuous place or places, on said road, and provided that said tolls shall not neat more than fifteen per centum per annum on capital stock, after keeping said road in repair.

SEC. 20. The corporation may make dividends at such times as the Board of Directors may deem proper and expedient.

SEC. 21. It shall be the duty of the directors to cause a full statement of the affairs of the company, to be made and exhibited to the stockholders at their annual elections, or at any other general meeting of the stockholders.

SEC. 22. That if any person or persons shall wilfully and knowingly injure or obstruct said road, or any part thereof, or shall break, destroy, or deface any work, edifice, or toll gate belonging thereto, such person or persons, so offending shall pay to the corporation three times the amount of damages, actually done, with the costs of suit, to be recovered by the corporation before any court having competent jurisdiction.

SEC. 23. The corporation may by contract admit the intersection with any other turnpike road or collateral road.

SEC. 24. That if said road, after its completion, shall be suffered to go into decay, or be impassable for one year, unless when the same is repairing, this charter shall be taken and considered as forfeited. It shall and may be lawful for the counties of Wayne and Union, at any time after the period of fifty years, to require said company to yield up and surrender to the said counties the said road, and all the privileges hereby conferred, on giving said company one year's notice of such intention, and on paying to said company the value of said road, and other property belonging thereto.

SEC. 25. This act to be in force from and after its passage; and it shall be taken to be a public act, and favorably construed for all beneficial purposes; and any subsequent Legislature, by a vote of two-thirds of each branch thereof, may alter or amend this charter.

CHAPTER XXVII.

An Act incorporating the Dearborn county Seminary.

[APPROVED JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Daniel Conaway Jr., Robert Moore, Spencer Davis, Benjamin

Vail, Nathaniel L. Squibb, Benjamin Walker, John Tait, William S. Durbin, John B. Clark, Aaron B. Henry, Jacob W. Egelston, Jeremiah H. Brewer, Ebenezer Dumont, William V. Cheek, George W. Lane, William Perry, and Henry Walker, and their successors in office, whose appointment is hereinafter provided for be, and they are hereby declared a body politic and corporate, by the name and style of the "Board of Trustees of the Dearborn county Seminary," and by that name they shall have perpetual succession. This body corporate or board of trustees shall have power to appoint a president, professor and tutors, as the necessity of the institution may demand; also to contract and be contracted with; to acquire, hold, enjoy, and transfer all property, real and personal, in their corporate capacity; to make and use a common seal, and the same to alter at pleasure, to sue and be sued, plead and be impleaded in any court of law or equity; to receive and accept of gifts, grants, or donations, bequests or conveyances by any person, company, or corporation, of any property real or personal, and to hold, enjoy, and dispose of the same as they may deem best for the interest of the institution; to make, ordain, establish, and execute such by-laws, rules, and ordinances as they may deem proper, not inconsistent with the constitution and laws of the United States or of this state.

SEC. 2. The board of county commissioners, or board doing county business of Dearborn county, shall annually hereafter at their March term, appoint twelve intelligent freeholders of said county as trustees of said seminary, four of whom shall reside in the township of Laughery. They shall also from time to time fill all vacancies that may occur.

SEC. 3. Of said trustees so appointed as aforesaid, three shall constitute a quorum for the transaction of all business, and all acts done by them shall be as valid as though all the trustees had been present.

SEC. 4. To promote the health of the students and diminish the expenses of their education, the said board of trustees may at any time they deem proper introduce the manual labor system, or any other useful improvement.

SEC. 5. Said corporation shall never hold more than four thousand dollars worth of real estate exclusive of the present seminary lot and buildings for a longer period than may be necessary to an advantageous sale of the same.

SEC. 6. At the first meeting of the said board of trustees after the first Monday of March annually, they shall appoint a president from their own body, and a treasurer and secretary either from their own body or from the body of the people of Dearborn county, who shall each serve until the next annual appointment above provided for and until their successors are appointed and qualified.

SEC. 7. It shall be the duty of the treasurer thus appointed, before entering upon the discharge of his duties to execute a bond payable to the State of Indiana, with good freehold security to be approved of by said trustees in the penal sum of one thousand dollars, conditioned for the faithful performance of his trust, and for the payment

to the order of the trustees of all moneys that may come into his hands as such treasurer. He shall also take an oath before some justice of the peace, for the faithful discharge of his duties as such treasurer.

SEC. 8. The office of trustee of the Dearborn county seminary as provided for in an act entitled "an act relating to county seminaries," approved February 17, 1838, is hereby abolished, and so much of said act as relates to the election of such an officer in Dearborn county, is hereby repealed.

SEC. 9. Said treasurer shall demand from his successor in office, or from the trustees of the Dearborn county seminary, all moneys, papers and effects appertaining to said office; and on failure or refusal of any such predecessor or former trustee of the Dearborn county seminary to deliver up the same when so demanded, suit shall be brought therefor in the name of his successor, against such delinquent, which suit may be by motion, (ten days' notice thereof having been given to such delinquent) or by bill in equity in the circuit court of the proper county; upon the hearing thereof, the said court shall make such order and decree against such delinquent as may be deemed just and reasonable: *Provided*, That no such proceeding shall bar a suit on the bond of such delinquent and his securities, for the same or any other breach of duty.

SEC. 10. All officers in whose hands or possession there may now be or hereafter come any moneys set apart for seminary purposes are hereby required to pay over the same to the said treasurer of the Dearborn county seminary within thirty days after the receipt thereof, taking such treasurer's receipt therefor, which receipt shall be filed by such officer with the clerk of said county of Dearborn, and by him recorded in a book kept for that purpose by the board doing county business.

SEC. 11. It shall be the duty of the clerk of Dearborn county and of all justices of the peace in said county to make report in writing to the board doing county business for said county at the March term of said board each year, the said clerk setting forth clearly and succinctly the names of all persons against whom fines have been assessed in the circuit court the preceding year, and the amount and cause thereof; and each justice of the peace setting forth the names of all persons against whom funds have been assessed by him the preceding year, and the amount and cause thereof, which report shall be entered of record by said clerk on the records of said board, in a book to be kept by said board for that purpose.

SEC. 12. Should any officer in whose hands there now is, or may hereafter be, any moneys set apart for seminary purposes, neglect to pay over the same to the said treasurer, according to the provisions of the 10th section of this act, such treasurer shall without delay institute suit therefor, by motion in the circuit court of the said county of Dearborn, after giving such delinquent ten days notice of such intended motion, and the court before whom the same may be tried, shall, in addition to the principal and legal interest which appear to be due, give judgment for ten per cent. damages thereon and costs of suit, and also

six per cent. thereon for the use of the attorney prosecuting the same; upon which judgment there shall be no stay of execution.

SEC. 13. Said treasurer shall at the March term of the board doing county business of Dearborn county, each year lay before said board, a full and complete statement in writing of the state of the seminary fund in his hands, exhibiting the whole amount received and disbursed by him during the year then ending, and the amount at that time in hands, and the purposes for which all disbursements have been made, as also the officers or persons from whom he may have received any moneys, specifying the amount he may have received from each; which report the clerk of said board shall enter of record in a book to be kept by said board for that purpose.

SEC. 14. The treasurer of said seminary shall submit his books and official transactions to the inspection of the board doing county business, whenever required.

SEC. 15. The treasurer of said seminary may be removed from office at any time, by the same power that appointed him, for any malfeasance in office.

SEC. 16. Said treasurer shall receive as a compensation for his services, three per cent. on all moneys that may come into his hands, and no more, and he is authorized to retain the same.

SEC. 17. All reports of officers required by this act to be made to the board doing county business at their March term each year, shall, if said board fail to sit at that time, be made at the next regular sitting.

SEC. 18. The board doing county business of Dearborn county shall keep a proper and separate book, in which shall be recorded, by the clerk of said board, all reports and proceedings relative to said seminary made to said board. And it is hereby made the duty of said clerk, on the first day of each circuit court of said county, to lay before the prosecuting attorney of the circuit in which the said county is situated, a statement shewing the names of all officers required to report to the board doing county business by the provisions of this act; also all that have so reported, and also setting forth the names of all who have not so reported.

SEC. 19. It is hereby made the duty of the prosecuting attorney of the circuit in which said seminary is situated, to attend to all suits and prosecutions instituted against any delinquent treasurer of said seminary, or by the board of trustees of said seminary, for which he shall be paid the sum of five dollars, to be taxed with the costs against the losing party; *Provided*, That unless he gains the suit he shall be entitled to no fee.

SEC. 20. In all cases when a fine is assessed against any person, the proceeds of which go to said seminary fund, the receipt of said treasurer for the sum shall in all cases be a release of such liability.

SEC. 21. The board of trustees of said seminary shall keep a record of all their proceedings in a book to be kept for that purpose, which shall be signed by the president, and in his absence, by the president, *pro tempore*, and attested by the secretary, and no moneys shall be paid

but upon the order of the trustees, entered of record, a certificate of which, signed by the secretary, shall be sufficient authority for the treasurer to pay the amount expressed in said order to the person named in said order, or to his assignee.

SEC. 22. It shall be lawful for said board of trustees to establish both a male and female department in said seminary, but no scholar of either sex shall be admitted into said seminary, who has not been taught to read.

SEC. 23. Said board of trustees may procure a library and such philosophical apparatus as they may deem necessary for the use of said seminary.

SEC. 24. The board of trustees may appoint a president and secretary, *pro tem.*, when necessary.

SEC. 25. All adjourned meetings of said trustees, at which a quorum may be present, shall be legal; but no called meeting of said board of trustees, not authorized by a previous adjournment, shall be legal, unless each trustee have ten days written notice of such intended meeting, signed by the president or secretary.

SEC. 26. Said board of trustees shall have the right, through their treasurer, to demand and receive from the treasurer of state, all moneys that may be in his hands belonging to the Dearborn county seminary.

SEC. 27. No preference shall ever be given to any religious denomination in the selection of trustees, teachers, professors, or tutors, or students of said seminary.

SEC. 28. Each trustee, clerk, and treasurer, of said seminary, shall be furnished with the law containing this act.

SEC. 29. Should any justice of the peace, clerk of the circuit court, or other person, required by the provisions of this act to pay over moneys that are or may come into his or their hands to the treasurer of said seminary, fail to pay over the same for more than thirty days after the same may come into his hands, any such person so offending shall upon conviction by presentment or indictment, be fined in any sum not exceeding fifty dollars.

SEC. 30. Should any justice of the peace, clerk, treasurer, or other officer, required by the provisions of this act to make report to the board doing county business, or to the prosecuting attorney, fail to do the same as in this act required, any such person so offending shall, upon conviction by presentment or indictment, be fined in any sum not exceeding fifty dollars.

SEC. 31. The act entitled, 'an act to incorporate the Dearborn county seminary, approved, January 22, 1835,' and all other acts or laws coming within the purview of this act be, and the same are hereby repealed. This act to take effect and be in force from and after its passage, and to be considered and taken to be a public act, subject to be repealed or altered by the Legislature at any time, by a vote of two-thirds thereof.

CHAPTER XXVIII.

An Act to incorporate the town of Pendleton, in Madison county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Nathan Richmond, William H. Mershon, Jephtha Johnson, Hugh Rogers, and Martin Chapman, of the town of Pendleton, they and their successors in office, be, and they are hereby constituted a body politic and corporate under the name and style of the trustees of the town of Pendleton, with full power to sue and be sued, plead and be impleaded, in any court of competent jurisdiction. The above named trustees shall continue in office until the first Monday of January next, and until their successors are duly elected and qualified.

SEC. 2. The said trustees shall hold their first meeting at the Methodist church in said town on the first Monday of March next, and shall elect a president from their own body, who shall preside at all meetings of the board, put all questions, and upon an equal division shall give the casting vote, and shall sign the minutes of the proceedings of all meetings of the board: *Provided, however,* that in case the president shall be absent at any meeting of the board, said board may elect a president pro tem. who shall for the time being discharge all the duties of president; and the board at their first meeting shall also appoint a clerk, collector, treasurer, supervisor, and assessor.

SEC. 3. That said president and trustees shall cause an election to be held on the first Monday in January, 1840, and annually thereafter, for the purpose of electing five trustees for said town; of which election public notice shall be given in such manner as the board of trustees may direct, at which election every qualified voter (at other elections) resident in said town, shall be entitled to vote; and said trustees when elected, shall appoint officers for said town as in the 2d section of this act is provided.

SEC. 4. The president of the board for the time being, shall attend all such elections of town officers, and shall nominate in the presence of the assembled voters, an inspector, two judges and a clerk of said election, who shall, after taking an oath to be administered by said president for the faithful discharge of their duties, between the hours of ten o'clock, A. M., and four o'clock, P. M., hold said election.

SEC. 5. It shall be the duty of the inspector of said election to certify under his hand and seal the persons having the highest number of votes, which certificate shall be recorded by the clerk of said corporation, which shall authorize the said trustees elect to enter upon the discharge of the duties of their office, upon their taking an oath, to be administered by the clerk of said corporation (or by any officer authorized to administer oaths) for the faithful discharge of the duties of office.

SEC. 6. All qualified voters in said town shall be eligible to the of-

fice of trustees; when vacancies occur, they shall be filled by the board until the next annual election; a majority of said board of trustees shall form a quorum for the transaction of business; the president shall sign all laws, ordinances and decrees, and also the records of their by-laws.

SEC. 7. The clerk, collector, treasurer, supervisor, and assessor, appointed by said board shall before entering upon the duties of their office, each take an oath, to be administered by the president of said board for the faithful discharge of the duties of said offices, and shall also give bond payable to the said president and trustees, with security to the acceptance of said board, conditioned for a faithful discharge of the duties of their respective offices; and upon breach of said condition, such officer and his securities shall be liable at the suit of said president and trustees before any court of competent jurisdiction; and upon any such suit, if said board recover any damages for such breach of bond, they shall also receive ten per centum damages thereon, and no stay of execution shall be allowed on such judgment.

SEC. 8. The said president and trustees shall have power, annually, to levy and collect upon real estate situate in said town, a tax not exceeding one per cent. on its valuation, upon personal property not exceeding twenty-five cents on each one hundred dollars worth thereof; on all shows, exhibitions, or amusements for gain, not exceeding thirty dollars for each day the same shall be exhibited; and they may also levy a poll tax on each of the voters of said town, not exceeding fifty cents to each poll.

SEC. 9. In the month of April in each year the assessor of said town shall proceed to make a fair list of all persons subject to taxation in said town, together with the valuation of such property as the board may declare taxable. He shall also particularly note the number and description of all lots and out-lots, and parcels thereof, and whether the owner of the same is resident or non-resident; such list shall be made alphabetically, and shall be returned to the clerk of the board on or before the second Monday in May next succeeding; and in all cases when said list shall be incomplete or incorrect, the said board shall have full power to complete or correct the same; and the said board shall, in the month of May, of each year, make out and deliver to the collector of said corporation, a duplicate of the taxes levied by said board.

SEC. 10. The collector upon the receipt of such duplicate of tax list shall within twenty days make and complete the collection of taxes in said town in the same manner and under the same regulations that are required of collectors of state and county revenue, and shall within the time aforesaid, make his return to the treasurer of said corporation; and the said treasurer, upon the making a full return by said collector, shall give to said collector a discharge therefor: *Provided, however,* if any such collector shall fail to collect all the taxes in said duplicate mentioned, the said board may add the uncollected amounts to the future taxes of such delinquents.

SEC. 11. If any lots, out lots, or parcels thereof, shall be returned

by the collector of said corporation for the non-payment of any taxes levied thereon, the board may at any time within two years thereafter decree a sale of such lot, out lot or parcel thereof for such unpaid tax, of which sale two months notice by printed or written notices posted at three of the most public places in said town shall be given, and such sale shall be made by public outcry by the collector of said town, whose duty it shall be to advertise the same; and on such sale the said collector shall sell the same to the highest bidder, or to the person who will pay the tax, per centum, and costs of such sale for the smallest portion of such lands.

SEC. 12. That upon any sale of real estate contemplated by the last preceding section, it shall be the duty of the collector to add to the amount of such delinquent tax, twenty-five per centum, together with costs attending such sale; and the said collector, at such sale, shall give to the purchaser or purchasers, a certificate of sale setting out the premises sold, and the amount paid by such purchaser or purchasers therefor, and if at any time within one year thereafter, the owner or owners, his, her, or their agent shall pay to such purchaser or purchasers, the amount named therein, together with twenty-five per centum per annum thereon, such purchaser or purchasers shall give to the person paying the same, a certificate of redemption of said premises. In case the owner or owners of such premises, shall fail to redeem any premises, so sold, within the time aforesaid, then, at the expiration of said time, it shall be the duty of the clerk to execute to such purchaser or purchasers, in the name of the trustees of said town, a deed for the premises so sold. The collector, on any sale of real estate, may, for the want of bidders, adjourn such sale from day to day, and in case such premises shall be returned unsold, for the want of bidders, the unpaid taxes and costs of such effort to sell, together with twenty-five per centum thereon, may be added to the taxes on the same premises, the following year.

SEC. 13. No person or persons within said corporation, shall sell by less quantities than one quart, any spirituous liquors, foreign or domestic, nor keep any tippling house, unless such person or persons, in addition to the county license, shall procure from the clerk of said corporation, a certificate showing that said applicant or applicants has paid to the treasurer of said corporation, such amount as shall be fixed by the board, which shall in no case exceed twenty-five dollars per annum; and it shall not be lawful for any person to retail within said corporation, any foreign or domestic merchandize, without first procuring from the clerk of said corporation, a certificate showing that such applicant has paid to the treasurer of said board, such sum as may be fixed by said board, which shall in no case exceed one per centum on the capital stock of such applicant. That any person offending against either of the provisions of this section, shall pay and forfeit to the use of said corporation, the sum of twenty dollars, to be recovered by action of debt, in any court of competent jurisdiction.

SEC. 14. The said board of trustees may pass ordinances and laws for the suppression of immorality, intoxication, rioting, or whatever

may detract from the good order and peace of society; and whenever any person shall be convicted of any breach of the by-laws or ordinances of said corporation, and shall have no property or money wherewith to pay the same, the supervisor of said town is authorized, if said person be an able bodied male, to compel him to work out such fine and costs thereon, upon the streets or alleys of said town, at the rate of fifty cents per day, the corporation furnishing sustenance for such person, while engaged in working out said fine. All fines collected for breaches of by laws and ordinances of said corporation, and all moneys arising from taxes and fines of any description, shall be expended by order of the board for the improvement of said town.

SEC. 15. The citizens of said town are hereby exempted from paying a road tax, without the limits of said town, and in lieu thereof, the board shall cause an amount of labor not less than one fourth more than is by law required of other citizens of said county, to be by the citizens of said town expended in the improvement of the streets and alleys of said town, under the superintendence of the supervisor of said town, who shall cause the same to be done in such manner and parts of the town as the board may direct. If any person shall refuse to work out the amount of tax levied under the provisions of this section, such person having been notified by the supervisor, at least one day beforehand, shall, for every day he shall so refuse to work, pay the sum of one dollar, to be recovered in the name of the corporation, and it is made the duty of the supervisor to prosecute all such as shall refuse to work or pay the amount aforesaid.

SEC. 16. All laws and ordinances passed by the board, of a public nature, shall be published, either by publication in a newspaper printed in said town, or by posting three copies thereof, in three of the most public places in said town, and an ordinance or by-law of a public nature, shall [not] be in force until ten days after such publication or posting of the same. The said board shall on the first Monday in December, in each year, publish a full statement of the receipts and expenditures of said corporation for the past year.

SEC. 17. That said corporation, for the purposes of police and taxation, shall embrace all the territory described in a plat of said town, to be made by the board of trustees, and recorded in the recorder's office of Madison county, within forty days after the passage of this act.

SEC. 18. The said board of trustees shall fix the amount to be paid to the assessor, supervisor, collector, treasurer, and clerk of said corporation. The trustees shall serve without fee, but no person shall be compelled to serve more than two successive years as a trustee.

SEC. 19. The legislature shall have power at any time hereafter, to alter, amend, or repeal this charter.

This act to be in force from and after its passage.

CHAPTER XXIX.

An Act to incorporate the Noblesville Insurance Company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That there shall be, and is hereby established in the town of Noblesville, in the county of Hamilton and state of Indiana, an insurance company, with a capital stock of one hundred thousand dollars, to be divided into shares of fifty dollars each, and subscribed and paid for by individual companies or corporations in manner hereinafter specified, which stockholders and subscribers and their successors shall be and are hereby created a body politic and corporate, with succession for the period of fifty years, by the name and style of the "Noblesville Insurance Company," and by that name shall be competent to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places in all matters whatsoever, with full power and authority to acquire, hold, possess, use, occupy and enjoy, and the same to sell, convey, and dispose of all such real estate as shall be necessary and convenient for the transaction of its business, or which may be conveyed to said company for the security or in payment of any debts which may become due and owing to the same, or in satisfaction of any judgment of a court of law, or any order or decree of the court of equity in their favor, and may have and use a common seal, and the same to alter, change and renew at pleasure, and may also make, ordain and establish, and put in execution such by-laws, ordinances, rules and regulations as shall be necessary and proper for the good government of said company, and the prudent and efficient management of its affairs: *Provided,* That no by-laws, ordinances, rules, regulations, or contracts of said company shall in any wise be contrary to the constitution and laws of this state or of the United States, provided said company shall never hold any real estate more than shall be necessary on which to erect the necessary buildings for the carrying on of the business of this association, but nothing herein contained shall prevent the said corporation from securing their debts by the purchase of real estate, provided that such real estate shall not be held by said corporation, or any person or persons, body or bodies corporate or politic in trust for said corporation for any greater length of time than two years.

SEC. 2. That said corporation shall have full power and lawful authority to insure all kinds of property against loss or damage by fire or any other cause or risk, to make all kinds of insurance against loss or damage on goods, merchandize, and produce in the course of transportation whether on the land or on the water, and any vessels or boats wherever they may be, to make all kinds of insurance upon life or lives, to lend money on bottomry and respondentia, to cause themselves to be insured against any loss or risk they may have incurred in the

course of their business, and against any maritime or other risk upon the interest they may have in any vessel, boat, goods, merchandize, or other property by means of any loan or loans which they may make on mortgage, bottomry, and respondentia, and generally to do and perform all other necessary matters and things connected with and proper to promote these objects.

SEC. 3. That it shall be lawful for said company to invest any part of their capital, stock, moneys, funds, or other property in funded debts, created or to be created by or under any law or laws of the United States, or of this or any other state, or in the stock of any chartered bank of this state or of the United States, and the same to sell and transfer at pleasure, and again to invest the same or any part thereof in such funds whenever and so often as the exigencies of said corporation or a due regard to the safety of its funds may require or they may loan the same or any part thereof, to individuals or public corporations on real or personal security, for such periods of time, and under such restrictions and limitations not contrary to the laws of this state as the directors thereof for the time being shall deem prudent and best for the interest of said corporation: *Provided,* That it shall not be lawful for said corporation to use or employ any part of their capital stock, money, or other funds in buying or selling goods, wares, or merchandize, nor shall said corporation issue or emit any bills of credit or receipts of deposit as a circulating medium of trade or exchange, nor in any manner engage in the business or operation of banking, nor make any contract in writing except under the seal of the corporation for the payment of money other than such as may be contained in their policies of insurance.

SEC. 4. That real and personal estate, business, property, funds, and concerns of said corporation, and the administration of its affairs shall be under the management and control of a board of nine directors, who shall be the stockholders and residents within this state and citizens of the United States, and after the first election they shall be elected by the stockholders on the second Monday in October annually, at such time of any day and at such place in the town of Noblesville as said directors for the time being shall direct; they shall hold their offices for the term of one year, and until their successors shall be chosen, and notice of such election shall be advertised and published for three weeks' next preceding the same, in a newspaper published in or nearest to said town, and such election shall be by ballot, and a plurality of votes received and counted in public by and under the inspection of three stockholders, not directors, at the time to be previously appointed by the board of directors for that purpose, and at every such election and at all other meetings of the stockholders held under the provisions of this act, each shall be entitled to one vote for each share. Any stockholder not personally attending such election, or other regular meeting of the stockholders and having a right to vote, may vote by proxy, such proxy being granted to a stockholder present at such election or meeting; and in case it should so happen that an election of directors should not be made on any day when by this act it ought to

have been made, it shall and may be lawful for said company to make an election for directors on any other day, in such manner as may be provided for by the laws and ordinances of said corporation.

SEC. 5. That the directors duly chosen under the provisions of this act, shall as soon as may be after the first and every annual election, elect from their own body a president, who shall preside in the board until the next annual election, and in case of death, resignation, or absence, the board shall appoint a president, *pro tempore*; they shall fill all the vacancies which may occur in their own body, during the time for which they shall be elected, and shall appoint a secretary, and all subordinate officers, clerks, agents, and servants, of said corporation, fix their compensation, define their powers, and prescribe their duties, who shall hold their several offices during the pleasure of the board, under such regulations, restrictions, and limitations, not inconsistent with the provisions of this act, and the by-laws, rules, and ordinances of said company, as the directors for the time being may prescribe; they shall make such by-laws, rules, and regulations, for their own government, and the management and disposition of the stock, property, estate, funds, and business of said company, and all matters referring thereto, as shall be needful and proper, not contrary to the provisions of this act, and the by-laws, rules, and ordinances, adopted at any regular meeting or meetings of the stockholders; they shall hold stated meetings agreeably to their own regulations, and at such other times as the president thereof for the time being shall order and direct, and a majority of the whole number shall constitute a quorum, and be competent to the transaction of business within the scope of their powers and connected with their duties; and all questions before the board shall be decided, *viva voce*, by a majority of the directors present, any two of whom may require the yeas and nays to be taken on any proposition submitted and entered in the journal of their proceedings, and no vote shall be reconsidered by a less number than were present and voting when the original vote was taken; they shall in the first week of January and July, annually, make and declare such dividends of the profits resulting from the business, as shall not impair nor in anywise lessen the capital stock of the same, and cause the same to be paid to the several stockholders; *provided*, that no such dividend shall be paid on any stock that has not been fully paid for, but shall be passed to the credit of such stock as part payment thereof.

SEC. 6. That all policies of insurance which may be made or entered into by said corporation, shall be subscribed by the president, or president *pro tempore*, or by such other officers as shall be designated for that purpose by its by-laws, and attested by the secretary, and being so signed and attested, shall be binding and obligatory on the said corporation, without the seal thereof, according to the true intent and meaning thereof; and all such policies and contracts may be entered into, and so signed and attested, and the business of the corporation may be carried on, without the presence of the board of directors, by the president and secretary; subject, nevertheless, to the by-laws, rules, ordinances, and regulations, established by the board of directors;

it shall be the duty of the secretary, at every annual election, or other general meeting of the stockholders, to lay before them a correct and particular statement of the condition and affairs of said company.

SEC. 7. That the stock of said company shall be assignable and transferable on the books of the same, or otherwise, according to such rules and by-laws, and subject to such restrictions and limitations, as may be established by the directors; and all such stock shall be held and considered as personal property.

SEC. 8. That any number of stockholders who shall at the time be owners of one-fifth part of the stock sold, shall have power to call a general meeting of the stockholders, by giving two weeks notice in some newspaper in or nearest to said town, of the time and place of such meeting; and the stockholders present in person, or by proxy, at any such meeting, shall decide all questions proposed for consideration by a plurality of votes, each share counting one vote, and may make and prescribe such by-laws, ordinances, rules, and regulations, as to them shall appear needful and proper in relation to the management of the affairs of the company, or for the government and direction of the officers thereof.

SEC. 9. The books for subscription for capital stock of said company, shall be opened in the town of Noblesville, by and under the direction of William Conner, John D. Stephenson, Samuel Dale, Daniel Small, Allen Cole, Ellis Evans, Asa Bales, Henry Jones, and Jacob Crull, who are hereby appointed commissioners for that purpose, whose duty it shall be, or any three of them, to give notice of the time and place of opening books for subscription in a newspaper printed in or nearest to said town; and it shall be the duty of said commissioners to keep open said books between the hours of nine and twelve o'clock, for the space of six days at least, in which it shall be lawful for any individual, company, or body corporate, to subscribe for any number of shares, and said individuals, company, or body corporate, shall, at the time of subscribing, pay to the said commissioners one dollar on each share so subscribed; and it shall be the duty of said commissioners, if four hundred shares are subscribed within the time aforesaid, or so soon thereafter as that number shall be subscribed, to give two weeks notice in some newspaper printed in said town, or nearest thereto, of the time and place for the stockholders to meet and elect the board of nine directors; which election shall in all respects be governed by the provision of this act for the election of directors; and the board of directors, thus elected, shall constitute the first board, and shall continue in office until the next annual election.

SEC. 10. That so soon as the board of directors are elected as aforesaid, it shall be the duty of the commissioners to pay over to said board of directors all moneys that may be in their hands belonging to said company, and deliver over to them all books and papers belonging to the same; and it shall be the duty of the directors to demand and receive of each stockholder, the full amount of the stock by them respectively subscribed, which payment shall be made either in cash or secured to be paid by giving real or personal security to the satis-

faction of the directors; and if any stockholders shall fail to make such payment, or give such security as aforesaid, within thirty days after the election for directors, such stockholder shall forfeit to the company the amount paid on such stock at the time of subscribing; *Provided*, that the said corporation shall not commence business, or grant any policies of insurance, until four hundred shares are subscribed and paid for, or secured to be paid as aforesaid, it being one-fifth of the capital stock; all the remaining balance of the stock shall be offered for sale at such time and place, and on such terms, as the directors for the time being may from time to time direct.

SEC. 11. That when the said corporation shall have commenced business as aforesaid, and shall grant any policy or policies of insurance on any kind of property, real or personal, against loss or damage by fire, or any other cause or risk on any goods, merchandize, or produce whatever; on land or on the water on any vessels or boats whatever, and wherever they may be; on life or lives; or shall lend money on bottomry and respondentia, it shall be lawful to charge such rate of premiums or interest, as may be agreed upon by the parties.

SEC. 12. That whenever any property, real or personal, on which a policy may have been effected, shall be sold during the existence of the policy, it shall be lawful for the vendor or vendors, to assign such policy to the vendee or vendees of such property, and such assignee or assignees, shall have full benefit thereof: *Provided*, that before any loss happens, notice shall be given said company, of said assignment, and provided that said company, when so notified, shall be at liberty to return a ratable proportion of premium, and thereupon be exonerated.

SEC. 13. That whenever said corporation shall be notified of any loss sustained or incurred, on any policy of insurance, granted or issued by the same, it shall be the duty of the said corporation, to pay the amount so lost or incurred on such policy, within sixty days after being so notified; *Provided*, there shall have been no violation of the condition of the policy on the part of the insured. The stockholders may at their regular meeting, either increase or diminish the number of directors, provided that there never shall be more than thirteen nor less than five.

SEC. 14. A copy of the original subscription book of stock shall be filed in the clerk's office of Hamilton county, within thirty days after the same shall be closed.

SEC. 15. The General Assembly may, at any time, appoint a commissioner to examine the books, papers, and officers of said corporation, who shall have power to send for persons and papers, and to examine, on oath, all or any of the officers of said corporation, and other persons touching all matters relative to the affairs of said corporation.

SEC. 16. If said commissioner report that said corporation has violated its charter, the General Assembly may order a scire facias to be issued from any court of competent jurisdiction, against the said corporation, requiring the same to show cause why said corporation shall not be dissolved, and such court shall have power, unless good cause

be shown to the contrary, to dissolve said corporation, and make such other order, judgment, or decree in the premises, as the law may require: *Provided*, that if the said corporation, or either, or any of its officers, shall withhold the production, in such court, of any, or all of its books, papers, or written proceedings, when thereunto ordered by said court, if a reasonable time be allowed for that purpose, that the same shall be of itself sufficient cause for such dissolution, and further order, judgment, or decree, as aforesaid.

SEC. 17. A failure to pay undisputed losses insured against, for the space of ninety days after a demand of payment, or for ninety days after final judgment, shall be one of the evidences of the violation of the charter.

SEC. 18. In case of the fraudulent insolvency of said corporation, the president and directors, by whose acts, or omissions the insolvency was wholly or in part occasioned, and whether then in office or not shall each be liable in the first instance, to the creditors and stockholders of said corporation, for his proportional share of their respective losses, the proportion to be ascertained by dividing the whole loss among the whole number of directors liable, and if any such president or directors shall be unable, by reason of being insolvent, or from any other cause, to pay his proportional part of such loss, then the residue of said loss shall be borne and paid in equal parts, by the remaining directors liable, as aforesaid, until the whole loss shall be reimbursed or the whole property, rights, credits, and effects of each of said directors, shall have been exhausted toward the payment of such loss; but this section shall not be so construed as to diminish the liability of directors as before declared; the insolvency of said corporation shall be deemed fraudulent, unless its affairs shall appear upon investigation to have been fairly and legally administered, and generally, with the same care and diligence that agents, receiving compensation for their services are bound by law to observe. And it shall be incumbent on the directors and stockholders of the corporation, should the same become insolvent, to repel by proof, the presumption of fraud.

SEC. 19. This act shall be in force from and after its passage, and shall be deemed and taken as a public act, and shall be construed favorably, for every beneficial purpose, and the corporation hereby created, shall exist for the space of fifty years from the first day of January, 1839, and no longer, reserving to any future legislature, the right of repealing any part of this act of corporation, by a vote of two thirds of both branches of said legislature.

CHAPTER XXX.

An Act to incorporate the Glenhope Manufacturing company.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William Bancroft, together with all other persons who are or may become stockholders pursuant to this act, shall be, and they are hereby constituted and declared a body corporate to all intents and purposes, by the name and style of the Glenhope Manufacturing company, by which name they, and their successors, and assigns, shall have continual succession, and be able and capable in law and equity, to sued and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any court of competent jurisdiction; to make and use a common seal, and the same to alter, change, or renew at pleasure; and they and their successors as a body corporate by the aforesaid name, shall be competent and capable of purchasing, holding, using, and conveying any property whatsoever, real or personal, which now belongs to, or may hereafter be purchased by said company, for the purpose of prosecuting the business of their association; and the said corporation shall exist for fifty years from the first day of March, 1839.

SEC. 2. The capital stock of said corporation shall not be less than twenty thousand dollars, nor more than one hundred thousand dollars, in shares of fifty dollars each.

SEC. 3. The said William Bancroft shall act as sole director of said corporation until the third Monday in March, 1839, and until others are elected.

SEC. 4. Three directors shall be chosen annually by the shareholders; the first election to be held on the third Monday in March, 1839; and they shall hold their offices for one year and until their successors are chosen, under such rules and regulations as the by-laws of the corporation may direct: *Provided*, that any vacancy by death, resignation, or otherwise, may be filled by the remaining directors until the next annual election.

SEC. 5. The stock of said company shall be considered as personal property, and shall be assignable agreeably to such rules and regulations as the board of directors may make and prescribe; but no transaction effecting the capital of said stock shall be valid until the same shall be entered on the books of said company as a matter of record, nor until all other claims which said company may have against the stockholder making a transfer shall be relinquished.

SEC. 6. The stockholders of said corporation shall duly be held responsible in their individual capacity for the amount of their respective subscriptions to said stock: *Provided*, that if said company should at any time fail or become insolvent, and its property should be insufficient to liquidate all just and legal debts, dues and demands; and

that the said directors shall have been found guilty of violating any part of the letter or spirit of this charter; or should any agent transcend the order of said directors, in either case such directors or agents, or their legal representatives, shall become liable to the full amount of such failure or insolvency; otherwise their respective liabilities shall be on an equal footing with other stockholders.

SEC. 7. A majority of the directors shall form a quorum to transact the business of said company, and may enact such by-laws, rules, and regulations as they may deem expedient for the government of said corporation, not inconsistent with this charter, the laws and constitution of this state, or of the United States; and they shall have full power and authority to put into operation all the designs contemplated by this act.

SEC. 8. The directors shall have power at any time to receive, and by due course of law to coerce the collection of any and all subscriptions to the capital stock of said corporation, together with all costs of suit, and any tax or damage which they may assess for delinquency or refusal on the part of subscribers to pay their respective instalments according to the terms of subscription; but such tax shall not exceed twelve and one half per cent. on the amount of the instalment due by such delinquent.

SEC. 9. The directors shall at all times keep, or cause to be kept, at some suitable place, proper books of accounts, in which shall be registered all the transactions of said corporation; and said books, during all business hours shall be subject to the inspection of the stockholders of said company.

SEC. 10. The corporation shall not enter into any banking business for the purpose of issuing bills of credit or bills of any description to pass as a circulating medium.

SEC. 11. The stockholders in said corporation shall be respectively liable for any debts due by or damages accruing against the said corporation during the time they are such stockholders respectively, in proportion to the amount of their stock severally held, to be recovered by a suit in equity or otherwise: *Provided*, that before such liability shall attach as aforesaid, there shall be a return of *nulla bona* on an execution against said corporation, or an equivalent proceeding.

SEC. 12. This act shall be, and the same is hereby declared to be a public act for the purposes herein specified, and shall take effect and be in force from and after a certified copy thereof shall have been deposited in the clerk's office of Wayne county: *Provided*, that any subsequent legislature may alter, amend, or repeal this charter by a vote of two-thirds of each branch thereof.

CHAPTER XXXI.

An Act to incorporate a Steam Mill company in the town of Paris.

[APPROVED, JANUARY 23, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That W. B. Goodhue, J. S. Smydth, and S. M. Robinson, together with other persons who may associate for the purpose of prosecuting the manufacturing, trading, exporting and importing business, to be established at or near the town of Paris, in the county of Jennings, Indiana, be, and the same are hereby ordained, constituted, and declared to be a body politic and corporate, to all intents and purposes; to be known and designated by the name of the Paris Manufacturing and Trading company, by which name they and their successors and assigns shall have continual succession, and be entitled to all the privileges, immunities of laws of this state as a body politic and corporate; such as contracting and being contracted with, suing, and if necessary, being sued, pleading and being impleaded, defending and being defended, in any court of competent jurisdiction; and that they and their successors may have a common seal, and may make and alter the same at pleasure; and they and their successors as a body corporate by the aforesaid name shall be competent and capable of purchasing, holding, using, and conveying any property or estate whatsoever, real or personal, that may by them be deemed necessary or expedient, to accomplish said object; and the said corporation as herein described, shall exist for the term of fifty years from and after the passage of this act.

SEC. 2. That the capital stock of said corporation may be one hundred thousand dollars, consisting of shares of one hundred dollars each; but it shall nevertheless be lawful for said corporation so soon as ten thousand dollars shall have been subscribed, to commence their business; and they shall then be entitled to all the privileges of extending the mount of the capital by subscription, till it amounts to one hundred thousand dollars as the interest or business of said corporation may require, and that the aforesaid Wm. B. Goodhue, J. S. Smydth; and S. M. Robinson or any two of them are hereby constituted commissioners, and as such, are hereby authorized to open books and receive subscriptions to said stock at such times and places as they may deem expedient after the passage of this act; which subscriptions shall be paid at such time and in such manner as the board of directors shall order and direct.

SEC. 3. That as soon as ten thousand dollars shall be subscribed to the capital stock of said company, the aforesaid commissioners shall proceed to order an election of five directors, who shall have the whole management of the stock, property, effects, and concerns of said corporation; said commissioners shall give at least ten days public notice previous to holding said election, by posting up notices thereof in at least three of the most public places in Paris and its vicinity. Said

directors shall be chosen by ballot from among the stockholders, and shall hold their office for one year from the time of their election, and no longer; and they shall be elected by a majority of votes given either by the stockholders present, or by written proxy from those not present, and each stockholder shall be entitled to one vote for each and every share he may hold in the capital stock of said corporation at the time of such election; which election shall be held in Paris, and annually from the date of the first election. The said commissioners shall act as judges and managers of said first election; but at each subsequent election the acting directors shall perform all the duties herein assigned to the commissioners in the first election; and said directors shall elect one of their number to act as president of the said board of directors; and in case of a vacancy of one in said board, by death or otherwise, the remainder of the board shall have power to fill the vacancy; but if a vacancy of two or more should occur, the remaining board shall order an election to fill said vacancy.

SEC. 4. A majority of the directors shall form a quorum capable to transact the business of said company; and may enact such by-laws, rules and regulations as they may deem expedient for the government of said corporation: *Provided*, they be compatible with the laws and constitution of this state, and the United States. The said directors shall have full power and authority to put into operation all the designs contemplated in this charter.

SEC. 5. The directors shall have power to receive, and by due course of law to collect all subscriptions made in writing, for the purpose of raising the funds necessary to carry into effect the objects of said corporation, and shall be entitled to recover ten per centum damages on any instalment of stock which shall not be paid pursuant to the requisitions of said board; or the board may, in their discretion, after failure to pay any instalment of stock as required, declare the part of said stock before paid in on said share forfeited to the use of the company: *Provided*, that notice of such requisition shall be given by such directors by written advertisements posted up at five of the most public places in and around Paris, at least thirty days before the instalment may be payable, specifying the amount thereof and when due.

SEC. 6. That said stockholders shall each be held responsible to all creditors in his individual capacity, to the amount of his stock, on failure of a sufficiency of property belonging to said company, and no further: *Provided*, that said corporation shall at no time be indebted to an amount exceeding the stocks sold and held in said company. In case of excess, the directors under whose administration the same may happen, and by whose order or vote the same may have been created, shall be liable therefor, in their individual capacity. But nothing in this section contained, shall be so construed as to exempt said corporation from being also liable for such excess: *Provided*, the individual property of such directors be not sufficient to discharge the same.

SEC. 7. That said directors shall appoint a secretary and treasurer:

er, who shall report to said board of directors at least every six months, and as much oftener as said board may order or direct. And that said secretary shall keep the books of said company in such manner that at any time they will give a full expose of all the transactions, and the then situation of the concern; which books shall at all business hours be open to the inspection of all or any stockholders, or any creditor of the corporation; and on a refusal thus to exhibit said books the secretary shall be fined in any sum not exceeding one hundred dollars, at the discretion of the jury trying the same, by presentment or indictment, in any court having competent jurisdiction. And said board of directors shall demand and receive of the treasurer thereof, bond and security to their acceptance in any amount which they may deem necessary for the safety of the funds thereof. That nothing herein contained shall be so construed as to prevent any member of said board of directors from serving either as secretary or treasurer.

SEC. 8. The stock of said company shall be considered as personal property, and shall be assignable and transferable agreeably to such rules and regulations as the board of directors may at any time make and prescribe: *Provided*, that no transaction in the capital stock shall be valid until the same shall be entered as a matter of record on the stock book of said company, nor till all or any claim which said company may have against said stockholder or stockholders be liquidated.

SEC. 9. The process against said corporation shall be by summons, which being executed on any director or president thereof, the further proceedings shall be the same as against natural persons or individuals.

SEC. 10. This charter shall be and is hereby limited to the term of fifty years from and after its passage; but the corporation shall not, in any way whatever, act or be engaged in any species of banking business or issuing any bills of credit in the form of bank notes.

SEC. 11. This act shall be, and the same is hereby declared to be a public act for the purposes herein specified, and shall take effect and be in force from and after its passage: *Provided, however*, that any subsequent legislature of this state may by a vote of two-thirds of each branch thereof, alter, amend or repeal this charter.

CHAPTER XXXII.

An Act to incorporate the Spencer and Terre Haute M'Adamized Company.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That James M. H. Allison, Noah Allison, Delana R. Eckels, John

Young, Harlin Richards, Folery B. Johnson, George Duignan, Samuel Dunn, John Dunn, Samuel Dixon, Isaac Westfall, Jacob Harish, Levi Bum, Joseph H. Style, A. Jaslin, Lawrence Adams, and Benjamin Freeland, of the county of Owen, and William Christy, Senior, George Dunham, William Harrin Josborn, J. J. Burton, E. Junkins, J. M'Intire, S. Miles, and Eli Anderson, and their successors in office, duly elected, as hereinafter directed, are hereby constituted and appointed a body corporate and politic, and by the name and style of the president and directors of the Spencer and Terre Haute M'Adamized Road Company, shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in all courts of justice whatsoever; to make and use a common seal, and the same to alter, change and renew at pleasure; and shall be able and capable in law, to make contracts and enforce the same, and to make and enforce the necessary by-laws, rules and regulations, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of this state.

SEC. 2. The capital stock of said corporation shall be eight hundred thousand dollars divided into shares of fifty dollars each.

SEC. 3. The directors named in this act, or a majority of them, may meet at such time and place as they may agree on, and organize said corporation, by electing one of their number president, and after such organization, any three of the board shall be a quorum, but after an election for directors it shall require seven to form a quorum.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary to carry into effect the provisions of this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws, rules, and regulations, and all orders for the payment of such allowances as may be made to their officers, and all others in their employ; which journal shall from time to time be read by the board, and, if correct, shall be signed by the president. They shall sit on their own adjournments, or on the call of the president; when the president is absent, they shall appoint a president pro tempore; they shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock, at such time and place or places as they may choose, due notice of which shall be given; in each of which books the following entry shall be made: "We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite our names, in such manner and proportions, and at such times as the president and directors of the Spencer and Terre Haute M'Adamized road company may direct. Witness our hands, this _____ day of _____ 1839"

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate company, for the agent of any state, or of the United States on behalf of the same, to subscribe for any amount of capital stock; and the books shall be kept open for such space of time,

and at such place or places as the corporation shall choose, and may be re-opened at any time; and they may, by an agent, offer for sale, in any other state, any amount of stock, upon such terms and conditions, as may be thought advisable; and they shall have power, on their own credit, to borrow money upon such terms as may be agreed upon by the parties. The corporation may require such sums of money to be paid over at the time of subscribing, not exceeding five dollars on each share, as they may think proper; but such requisition shall be made known by being inserted in the notice for opening books, and any future payments on the stock shall be under the control of the corporation.

SEC. 7. As soon as five hundred shares are subscribed, and ten dollars paid on each share, it shall be the duty of the corporation to give three weeks notice thereof, in one or more newspapers, and in such notice appoint a time and place for the stockholders to meet and elect thirteen directors, who shall be stockholders and citizens of this state; which election shall be held within three months after the last share in the five hundred was subscribed for; and shall be conducted by two judges appointed by the stockholders present; and the persons having a plurality of the votes given and counted in public, shall be declared duly elected. No share shall confer a right to vote at any election, unless the same shall have been held one month previous to the election; in all elections, each share shall entitle the holder to one vote; and votes may be given by the persons owning the same, or by one of any partners, or by the husband, father, master, administrator, or executor, trustee or guardian, or by the authorized agent of any corporation, state, or of the United States, or any person, having a right to vote, may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their body president; the president and directors thus elected, shall continue in office until the next annual election, and until their successors are elected and organized.

SEC. 9. All elections after the first, shall be held on the first Monday of October annually, under the direction of five stockholders, not directors at the time, to be appointed by the board, at a previous meeting, or by the stockholders present; of which election, notice shall be given: *Provided*, that if from any cause whatever, there should be no election held on the day appointed by this act, or by the directors, for the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held. They shall be signed by the president and countersigned by the clerk. The stock shall be transferrable on the books of the corporation only, personally, or by an agent, or attorney, or by the administrator, executor, trustee or guardian, but such stock shall at all times be holden by the corporation, for any dues from the holder thereof to the corporation, or for any sum that may hereafter become due, on a contract made prior to such transfer.

SEC. 11. The corporation shall have power to call for such pro-

portions of stock subscribed, not exceeding twenty-five per cent. of the amount of stock, every six months as they may think proper, to be paid at such time and place as they may designate, by giving sixty days notice in some weekly newspaper printed nearest the place where a majority of stock is held, or by giving written notice to the stockholders: in all such notices the amount on each share demanded, and the time and place of payment shall be set forth; and if any stockholder shall neglect or refuse to pay such requisition, within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due, in any court of competent jurisdiction, and recover the amount with three per cent. a month interest thereon for such detention; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon, and the same shall thereby be absolutely forfeited to the corporation, and no such delinquent before the forfeiture of his stock, shall have the right to vote for directors, or receive any dividend on his, her, or their stock, until the corporation is fully paid and satisfied.

SEC. 12. The corporation shall require of all officers and others in their employ, bonds with security to their acceptance, with such penalties as they may think proper, for the faithful performance of their respective duties.

SEC. 13. The corporation, by their agents, shall have full power from time to time, to examine, survey, mark, and locate the route for a M'Adamized or a clay turnpike road, commencing at Spencer, in Owen county, and running on the best ground for the interest of the company and the convenience of the public, via Bowlinggreen in Clay county, to Terre Haute in Vigo county, with full power in all cases to diverge from a direct line, when more favorable ground can be had for the construction of the road, or the interests aforesaid may require it; the same to be not more than eighty feet wide.

SEC. 14. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road. But no stone, gravel, wood, or other materials shall be taken away from any land, without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

SEC. 15. It shall be lawful for the corporation, either before or after the location of any section of the road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of said land as may be necessary for the construction and location of the road; as also the stone, gravel, timber, or other materials that may be obtained from any other land near thereto: and it shall be lawful for said corporation to receive by donations, gifts, grants, or bequests, land, money, labor, property, stone, gravel, wood, or other materials, for the benefit of said corporation. And all such

contracts, relinquishments, donations, gifts, grants, and bequests, made and entered into in writing, by any person or persons capable in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory, and the corporation may have their action at law in any court of competent jurisdiction, to compel the observance of the same; *Provided*, that all such contracts, relinquishments, donations, gifts, grants, and bequests, shall be fully and plainly made in writing, and signed by the party making the same.

SEC. 16. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such difficulty may occur, that such facts do exist, and such justice shall thereupon summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall appoint twelve disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land or materials, and after taking into consideration the advantages the road may be to the same, and shall report thereon whether such person is entitled to damages or not, and if so, how much, and shall file said report with such justice; whereupon said justice shall enter judgment thereon, unless for good cause shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises either with or without costs; *Provided*, that either may at any stage of the proceedings, appeal to the circuit court of the proper county, as in other cases, and such court shall appoint reviewers as above directed, who may report at that or the succeeding term, in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 17. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such land may be, such justice shall cause three notices of the application made, and the day fixed for the appointment of reviewers, to be posted up in three of the most public places in the county, and if no person attend on the day named in said notices, said justice shall adjourn the same until that day three weeks, at which time he shall proceed as if such person or persons had been duly notified to attend; and on such judgments being rendered, and the corporation complying therewith, by the payment of costs or damages awarded against them, the corporation shall be seized of the lands or materials; costs shall be allowed or awarded against either party at the discretion of the justice.

SEC. 18. That, if it should be found necessary and advantageous to the location and construction of said road, the corporation shall have the right to lay the same along and upon any state and county road; *Provided*, however, before such location shall be made, the corporation shall make application to the county commissioners of the proper county for such right, and the said commissioners are hereby vested with powers to grant the same by an order entered on their

record. *And provided also*, that such right shall be granted on condition that the corporation shall leave a sufficiency of said state road in as good repair for common use as previous to such occupation.

SEC. 19. That when said corporation shall have procured the right of way as hereinbefore provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupancy of the same; and no person, body corporate, or politic, shall in any way interfere therewith, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

SEC. 20. The corporation shall commence the construction of said road any time within five years, and from time to time construct so much towards the point of destination, as may be within the ability and interest of the company, and shall complete it within ten years from the commencement; *Provided*, that if the road should not be completed within the time aforesaid, the General Assembly may, for good cause shown, give further time to complete the same.

SEC. 21. And the said company is hereby authorized to construct a M'Adamized or clay turnpike road on said route, as they may deem proper, and for the interest of the company, and the convenience of the public; and the corporation may erect toll gates, not to exceed one every ten miles, on said road or any part thereof, that may be in a sufficient state for travel, although the whole may not be finished or made fit for travel, and charge and collect toll on the same; and they may charge tolls on the same when it is graded and bridged only.

SEC. 22. Half yearly dividends of so much of the profits as the corporation may deem expedient, shall be made on the first Monday in May and October annually, unless the directors fix on a different day, and paid to the different stockholders as soon thereafter as it can with convenience be done; but no dividend shall be made to a greater amount than the nett profits, after deducting all expenses; and the corporation may reserve such proportion of the profits as a contingent fund, to meet subsequent expenditures, as they may deem proper.

SEC. 23. That if any person or persons shall wilfully and knowingly injure or obstruct said road, or any part thereof, or shall break destroy, or deface any work, edifice, device, or toll house thereto belonging, such person or persons so offending, shall pay to the corporation three times the amount of the damages actually done, with costs of suit, to be recovered by the corporation before any court having competent jurisdiction; *Provided*, that actions commenced by the corporation for the recovery of damages, and all actions commenced against such corporation for the recovery of damages, shall be commenced within eight months from the time such cause of action occurred, and not after.

SEC. 24. The state reserves the right to subscribe for eight thousand shares of the stock, any time within five years from the commencement of the work.

SEC. 25. It shall be lawful for the board doing county business for each and every county through which said road may pass, for and

on behalf of said county, to authorize by an order as much of the stock to be taken as they may think proper.

SEC. 26. It shall be the duty of the corporation to cause a full statement of the affairs of the company to be made and exhibited to the stockholders at every annual election, or at any other general meeting of the stockholders.

SEC. 27. Any number of the stockholders owning one-third of the stock, may call a general meeting of the stockholders, by giving four weeks notice in one or more newspapers, and specifying in such notice the object of the call; and, a majority of the stock being represented, they may make such orders relative to the concerns of the company, as a majority may determine.

SEC. 28. The corporation may, by contract, admit the intersection of said road with any other road, or collateral road.

SEC. 29. Should the capital stock herein granted, not be sufficient to accomplish the intended work, the corporation may increase the same; and the stockholders may, at any general meeting, reduce the number of directors to any number not less than seven.

SEC. 30. That if said road after its completion, shall be suffered to go into decay, or be impassible for one year, unless when the same is repairing, this charter shall be taken and considered as forfeited.

SEC. 31. The corporation shall in no case engage in trade or deal in merchandize, other than may be necessary to carry into effect the objects contemplated by this act, nor shall said corporation, under any pretence whatever, enter into the banking business for the purpose of issuing bills of credit, or bills of any description, to pass as a circulating medium.

SEC. 32. This act to be in force from and after its passage; and it shall be taken to be a public act, and shall be favorably construed for all beneficial purposes; *Provided, however*, that the Legislature shall have the right to alter, amend, or repeal this charter at any time, by a vote of two-thirds of the members.

CHAPTER XXXIII.

An Act to incorporate the Hancock Guards, and for other purposes.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the state of Indiana*, That George Tague, Thomas D. Walpole, Andrew T. Hart, Henry W. Ingersole, William Johnson, Joshua Stone, John Hare, Gilbert Wright, Andrew M. Patterson, James Tyner, Jonathan Dunbar, William Ryse, Morris Pearson, Cornwell Meek, Ferdinand Keiffer, Bazel Meek, Otho Gopen, and John Stephens, and their associates and suc-

cessors, be, and they are hereby constituted and declared to be a body corporate and politic by the name and style of the Hancock Guards, and by that name shall have perpetual succession, with full power and authority to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of law or equity; to make, have, and use a common seal, and the same to alter at pleasure; they shall have power to elect their own officers; to make, ordain, establish, and enforce such by-laws, rules, and ordinances, not inconsistent with the constitution and laws of the United States, nor this state, as they shall deem necessary for the welfare of said company, and to do and perform in pursuance thereof, all things necessary for the prosperity and good government of the same.

SEC. 2. The officers of said company shall consist of one captain, lieutenant, ensign, four sergeants, four corporals, all of whom shall be elected by the said company, and serve for the term of three years, and shall be commissioned by the Governor. All elections of said officers shall be by *viva voce* vote of said company; and said election shall be held at such times and places as may be directed by the company; due notice thereof shall be given for at least ten days, of the time and place of holding such election.

SEC. 3. Said company shall be subject to the civil power, and shall be ready when called upon by the same, to turn out for the purpose of aiding in quelling, in suppressing riots, and insurrections which may happen in Hancock county.

SEC. 4. Said company shall have power to assess and collect such fines for non-attendance on the parades or drills, or meeting for transaction of business of said company, not exceeding five dollars per day, and such fines for the deficiencies of equipments, not exceeding one dollar for each article. They shall have power to expel from said company or punish by fine not exceeding five dollars for each contempt or disobedience of orders, or unsoldier-like conduct on parade or drill, or other meeting of said company; and all fines assessed by said company may be sued for by an action of debt in the corporate name of said company, and collected before any justice of the peace or other court having competent authority.

SEC. 5. All fines collected by said company shall be for the exclusive use of said company, and may be applied toward the purchase of colors, instruments of field music, tents, camp equipage, defraying expenses of attending the performance of camp duties.

SEC. 6. That to enable said company to carry into effect the provisions of the fourth section of this act, they are hereby authorized and empowered to organize within themselves such courts as may be necessary to take cognizance of all delinquents, contempts, and disobedience of orders and unsoldier-like conduct on the part of any member or members of said company.

SEC. 7. After the organization of said company, as provided for by this act, and so long as the said company shall remain in active operation, the said persons composing the same shall not be compelled to

perform militia duty, any law to the contrary notwithstanding. The legislature shall have power to alter, amend, or repeal this charter at any time by a vote of two-thirds thereof.

This act to be in force from and after its publication.

CHAPTER XXXIV.

An Act to incorporate the Young Mens' Literary Association of Richmond, Wayne county, Indiana.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Robert Hatton, Jesse M. Hutton, John L. Maulsby, Edwin Vickers, Hermon B. Payne, Jesse P. Siddall, and Upton Elliott and others, their successors in office, and hereby constituted a body corporate and politic, by the name and style of the "Young Mens' Literary Association of Richmond," and as such shall be capable of suing and being sued, pleading and being impleaded, answering and being answered unto, in any court of law or equity having jurisdiction, and shall be authorized to have a common seal, and the same to alter and renew at pleasure.

SEC. 2. The capital stock of said association may consist of any sum, the yearly income of which shall not exceed five thousand dollars, to be divided into shares of such value as a majority of the members shall decide, and said shares shall be assignable and transferable at pleasure.

SEC. 3. The members of the association shall elect annually on the first Monday in March, a president and six trustees, who shall hold their office for one year, and until their successors may be chosen, and qualified, they shall have power to fill all vacancies in their own body, and with the consent of a majority of the association may appoint such officers as they may think necessary for the management of said corporation, and make such rules for the reception of members as they may think necessary. They shall have power to make all by-laws necessary for the general government of the association not contrary to the laws of this state nor of the United States.

SEC. 4. The said corporation shall be capable in law to receive and hold property, either real or personal; *Provided*, the proceeds thereof shall be applied solely to the objects of the association.

SEC. 5. This act to be in force from and after its passage; and to remain in force until the first day of March one thousand eight hundred and sixty.

CHAPTER XXXV.

An Act to incorporate the Dalton Steam Mill, Manufacturing, and Trading Company.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Thomas Dennis, Charles Boroughs, Joseph Routh, Jonathan P. Creger, Zachariah Berson, Joseph Davis, and J. W. Williamson, together with such other persons who may associate for the purpose of prosecuting the agricultural, exporting, importing and steam mill manufacturing business within this state, to be established and located at Dalton, Wayne county, and state of Indiana, to be, and the same are hereby ordained, constituted and declared to be a body politic and corporate to all intents and purposes, to be known and designated by the name of the "Dalton Steam Mill Manufacturing and Trading Company," by which name they and their successors and assigns shall have continual succession and be entitled to all the privileges and immunities of the laws of this state, as a body politic and corporate, such as contracting and being contracted with, of suing and being sued, pleading and being impleaded, defending and being defended in any court of competent jurisdiction, and that they and their successors may have a common seal, and may make and alter the same at their pleasure, and that they and their successors as a body corporate, by the aforesaid name shall be competent and capable of purchasing, holding, using and conveying any property or estate whatever, real or personal, that may by them be deemed necessary to prosecute their designs as aforesaid; and the said corporation as herein described, shall exist for the term of seventy years from and after the passage of this act.

SEC. 2. That the capital stock of said corporation shall consist of fifty thousand dollars, consisting of shares of twenty-five dollars each, that it shall nevertheless be lawful for said corporation as soon as five thousand dollars shall have been subscribed to commence their business, and they shall then be entitled to all the privileges of the said corporation, and shall at all times have the privilege of extending the stock by subscription till it amounts to fifty thousand dollars as the interest or business of said corporation may require, and that the aforesaid Thomas Dennis, Charles Boroughs, Joseph Routh, Jonathan P. Creger, Zachariah Berson, Joseph Davis, and J. W. Williamson, or any four of them, are hereby constituted commissioners, and as such are hereby authorized to open and receive subscriptions to said stock at such places and times as they may deem most expedient after the passage of this act; which subscriptions shall be paid at such time and in such manner as the board of commissioners shall order and direct.

SEC. 3. That as soon as five thousand dollars shall be subscribed to the capital stock of said company, the aforesaid commissioners shall

proceed to order an election of five directors, who shall have the whole management of the stock, property, and concern of said corporation, said commissioners shall give at least fifteen days' public notice previous to holding said election in three of the most suitable places, in order to a notice of all concerned; the said directors shall be chosen by ballot from among the stockholders, and shall hold their office for one year from the time of their election, and until their successors are elected and qualified, and no longer. They shall be elected by a majority of all the votes given either by the stockholders present, or by written proxy from those not present, and each stockholder shall be entitled to one vote for each and every share he may hold in the capital stock of said company at the time of such election; which election shall be held in the town of Dalton, and annually from the date of the first election, the said commissioners shall act as judges and managers of said first election, but at each subsequent election the acting directors shall act as judges, and shall manage and conduct said election, and said directors shall elect one of their number to act as president of said board of directors, and in case of a vacancy of one in said board by death or otherwise, the remainder of the board shall have power to fill the said vacancy, but if a vacancy of two or more should occur, the remaining board shall proceed to order an election to fill said vacancy.

SEC. 4. That a majority of the directors shall form a quorum, capable to transact the business of said company, and may enact such by-laws, rules and regulations as they may deem expedient for the government of said corporation, provided they be compatible with the laws and constitution of this state and of the United States. The said directors shall have full power and authority to put into operation all the designs contemplated in this charter.

SEC. 5. That the said directors shall have full power at any time to receive and buy, and by a due course of law coerce the collection of any and all subscriptions to the capital stock of said corporation, together with all costs of suit, and any tax of damage which they may assess for delinquencies or a refusal to pay their respective instalments when called on by said directors: *Provided*, such tax shall not exceed twenty per cent. on the amount of stock subscribed by said delinquent.

SEC. 6. That the stockholders of said corporation shall be duly held responsible in their individual capacity, for the amount of their respective subscriptions to said stock: *Provided*, that if said company should at any time fail or become insolvent, and its property and effects should not be sufficient to liquidate all just and legal debts, dues, and demands, and that said directors shall have been found guilty of violating any part of the letter or spirit of this charter, or should any agent be found thus transcending the order of said directors, in either case such directors or agents shall become responsible to the full amount of such failure or insolvency, otherwise their respective responsibilities shall be on an equal footing with other stockholders.

SEC. 7. The stock of said corporation shall be considered as personal property, and shall be assignable and transferable agreeably to

such rules and regulations as the board of directors may at any time make and prescribe: *Provided*, that no transactions in the capital of said stock shall be valid until the same shall be entered as a matter of record on the books of said company, nor till all or any claims which said company may have against said stockholder shall be liquidated.

SEC. 8. That said directors shall appoint one secretary, who shall report to said board of directors at least every six months, and as much oftener as said board may deem proper, and that said secretary shall keep the books of said company in such a manner that at any time they will give a full expose of the whole standing transactions and state of the concern, which books shall at all times be open to the inspection of all persons concerned in any respect with said company, either as stockholders or having dealings with or claims against said corporation, and that said secretary upon a refusal thus to display said books on any of the usual hours of doing business, shall be fined at the discretion of said board of directors in any sum not exceeding one hundred dollars.

SEC. 9. That said directors shall appoint one treasurer, who shall be required to give bond and approved security for the discharge of all the duties assigned him by said board of directors.

SEC. 10. That this corporation shall not in any respect whatever act or be engaged in any species of banking business or issuing any bills of credit in any form as bank notes.

SEC. 11. This act may be altered, amended, or repealed at any time, by two-thirds of the legislature, and to be in force from and after its passage.

CHAPTER XXXVI.

An Act to amend the act, entitled, an act granting to the citizens of Madison and the town of Lawrenceburgh, a city charter.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter the territory in the city of Madison, east of Walnut street, in said city, shall be divided into two wards, and all that part of said ward lying east of East street, shall constitute the ninth ward of said city, and all that part of said ward, lying west of said East street shall be and remain the first ward of said city.

SEC. 2. Should no regular inspector of any ward be appointed, as required in the act to which this is an amendment, it shall be lawful for the qualified voters of such ward, to appoint an inspector in the manner prescribed in the 11th section of the act aforesaid.

SEC. 3. The common council of said city, shall have exclusive

jurisdiction, within said city, to grant licenses to tavern keepers, inn-keepers, retailers of spirituous liquors by a less quantity than a quart, keepers of ale and porter houses and shops, and all other houses of public entertainment, showmen, and keepers and managers of theatrical exhibitions, and all other exhibitions for money or other reward, auctioneers for the sale of houses at public auction in the street, and keepers of ferries from said city across the Ohio river to the opposite shore; under the regulations provided in the 50th section of the act aforesaid.

SEC. 4. For the purpose of preventing, abating, or removing nuisances, said common council shall have jurisdiction one mile beyond the present corporate limits of said city. This act to be in force from and after its passage; and together with the act to which it is amendatory, to be deemed and taken to be a public act, and all laws and parts of laws, coming within the purview of this act, be and the same is hereby repealed: *Provided however*, that this act, together with the one to which it is amendatory, may be altered, amended, or repealed by any subsequent legislature, by a vote of two thirds of each branch thereof.

CHAPTER XXXVII.

An Act to incorporate the Laurel Trading and Manufacturing company.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That Thomas Hedrich, Isaac Clements, George G. Shoup, Henry Van Burgen, Henry D. Smith, John Coons, and James Conwell, together with all other persons who are, or may become stockholders, pursuant to this act, shall be, and they are hereby declared and constituted a body politic and corporate, by the name and style of the Laurel trading and manufacturing company, by which name they, and their successors and assigns, shall have continual succession, and be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any court of competent jurisdiction, to make and use a common seal, and the same to alter, change and renew at pleasure, and they, and their successors, as a body corporate, by the aforesaid name, shall be competent and capable of purchasing, holding, using, and conveying any property whatsoever, real or personal, which now belongs to, or may hereafter be purchased by said company, for the purpose of prosecuting the business of their association, and the said corporation shall exist for fifty years from and after the first day of April, 1839.

SEC. 2. The capital stock of said company shall not be less than twenty thousand, nor more than five hundred thousand dollars, in shares of fifty dollars each.

SEC. 3. The above named persons shall act as directors of said corporation, until the first Monday of April, A. D. 1839, and until their successors are elected.

SEC. 4. Seven directors shall be chosen annually by the stockholders, the first election to be held on the first Monday of April, A. D. 1839, or as soon after that as convenient, and they shall hold their office for one year, and until their successors are chosen: *Provided*, that any vacancy by death, resignation, or otherwise, may be filled by the remaining directors until the next annual meeting.

SEC. 5. The stock of said corporation shall be considered as personal property, and shall be assignable agreeably to such rules and regulations, as the board of directors may make; but no transaction affecting the capital of said stock shall be valid until the same shall be entered as a matter of record on the books of said company, nor until all or any claims which said company may have against the stockholders making a transfer, shall be relinquished.

SEC. 6. The stockholders of said company shall duly be held responsible, in their individual capacity, for the amount of their respective subscriptions to said stock: *Provided*, that if said company should at any time fail, or become insolvent, and its property be insufficient to liquidate all just and legal claims, debts, dues, and demands, and the said directors shall have been found guilty of violating any part of the letter and spirit of this charter, or should any agent transcend the orders of said directors, in either case, such directors or agent, or their legal representatives, shall become liable to the full amount of such failure or insolvency, otherwise their respective liabilities shall be on an equal footing with other stockholders.

SEC. 7. A majority of the directors shall form a quorum to transact the business of said company, and may enact such by-laws, rules and regulations as they may deem expedient for the government of said corporation, not inconsistent with this charter, the laws and constitution of this state, and of the United States, and they shall have full power and authority to put into operation, and all the designs contemplated by this act.

SEC. 8. The directors shall have power at any time to receive, and by due course of law, to coerce the collection of any, and all subscriptions to the capital stock of said corporation, together with all costs of suit, and any tax or damage which they may assess, for any delinquency or refusal on the part of the subscribers, to pay their respective instalments, according to the terms of subscription, but such tax shall not exceed twelve and a half per cent. on the amount of stock subscribed by such delinquent.

SEC. 9. The directors shall at all times keep or cause to be kept, at some suitable place, proper books of accounts, in which shall be registered, all the transactions of said corporation, and said books, during all business hours, shall be subject to the inspection of the stockholders of said company.

SEC. 10. The corporation shall not enter into any banking business

for the purpose of issuing bills of credit, or bills of any description to pass as a circulating medium.

SEC. 11. The stockholders of said corporation shall be respectively liable for any debts due by, or damages accruing against said corporation during the time they are such stockholders respectively, in proportion to the amount of their stock severally held, to be recovered by a suit in equity or otherwise: *Provided*, that before such liability shall attach, as aforesaid, there shall be a return of *nulla bona* on an execution issued against said corporation, or an equivalent proceeding.

SEC. 12. This act shall be considered and construed in all courts, a public act, and for the purposes herein specified, and shall take effect, and be in force from and after the time that a certified copy hereof, shall be deposited in the clerk's office of Franklin county: *Provided*, any subsequent legislature may alter and repeal this charter by a vote of two thirds of each branch.

CHAPTER XXXVIII.

An Act to incorporate the Wabash and Goshen turnpike company.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That Jonathan R. Cox, Hugh Hanna, Joseph H. Ray, Ira Burr, William Johnson, and William Teal, of Wabash county; Joel Long and James Wooden, of Kosciusko county; Joseph Cowan and Oliver Crane, of Elkhart county, and their successors in office, be and they are hereby constituted a body politic and corporate, by the name and style of the president and directors of the Wabash and Goshen turnpike company; and shall be able and capable in law and equity, to sue and be sued, defend and be defended, in any courts of law either in this state or in the United States, and make and enforce such by-laws as shall be necessary to enable them to carry into effect the provisions of this act, not inconsistent with the constitution of the United States, nor contrary to the laws and constitution of the state of Indiana.

SEC. 2. The capital stock of said company shall be two hundred thousand dollars, to be divided into shares of fifty dollars each, with power to increase the capital stock of said company, if necessary, to accomplish the object herein contemplated.

SEC. 3. The directors in this act named, or a majority of them, shall meet at such time and place as they may agree upon, and organize said corporation by electing one of their body president, and after such organization, any five of them shall be a quorum and authorized to do business.

SEC. 4. That the corporation shall have power to appoint all

officers necessary for carrying fully into effect the provisions of this act; and they shall cause books to be opened for subscription to the capital stock at such times and places as will comport with the interests of said company, and shall give due notice of the same in any way to make it most public.

SEC. 5. As soon as a sufficient amount of stock is subscribed for and paid in, so as to justify a commencement of said road, they shall take such steps to commence and complete the same, as the company or a majority of them shall agree on.

SEC. 6. The said corporation shall have power, by themselves or agents, to examine, survey, and locate a turnpike road from the town of Wabash via Laketon, in Wabash county, via Warsaw and Leesburg, in Kosciusko county, to Goshen, in Elkhart county.

SEC. 7. It shall be lawful for said company, either by themselves or agents, after the line of said road is run, to obtain relinquishments and donations, gifts and grants, made and entered into in writing by any person able to contract in law, made in consideration of such location for the benefit of the company, for a tract or parcel of land in width sufficient for said road, and for such materials as are necessary for the construction of said road; and in all cases where the company by themselves or agents cannot agree as to the value of any land or material that may be wanted for the construction of said road, they shall have power to call to their aid some disinterested person or persons, to compromise and settle all such disagreements, which, when so settled, shall be final and conclusive.

SEC. 8. That when said corporation shall have procured the right of way, as herein provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupancy of the same for the purposes aforesaid; and no person, body corporate or politic, shall in any way interfere with, molest, injure, or disturb any of the rights and privileges hereby granted.

SEC. 9. That whenever four miles of said road shall be completed, the corporation shall have the right to set up gates, and appoint gate keepers, and exact such tolls and rates as shall best comport with the interest of said company, so as not to be considered oppressive upon passengers.

SEC. 10. That if any person using said road, or any part thereof, shall, by any means whatever, attempt to evade the payment of such tolls as shall be required, he or she shall for every such offence, be liable to a civil action of law by said corporation, before any justice of the peace of the proper township, or before any court having jurisdiction thereof; and if such person be found guilty, he or she shall pay to the said company double the amount so endeavored to be evaded, with all the costs accruing from said action.

SEC. 11. If any person or persons shall wilfully injure the said road by obstructions, or any other way, he or she shall be liable to indictment, and on conviction thereof, shall be fined, or imprisoned in the jail of the proper county, as the jury may deem most proper.

SEC. 12. That when books are opened for subscription of stock to

said company, nothing herein shall be so construed as to prohibit the state, or any incorporated company, from subscribing for any amount of stock that may be agreed upon between the state or such corporation and this corporation.

SEC. 13. That the stockholders shall each be liable in their individual capacity, for any debt or debts contracted by them during the time either of them was a stockholder, to the amount of the stock by him owned; *Provided, however,* that the property of the corporation shall be exhausted first, or execution against the corporation regularly returned, no property found upon which to levy the execution.

SEC. 14. That operations shall be commenced under and by virtue of the provisions of this charter within twenty years, otherwise this charter shall be forfeited and of no effect. This act may be altered, amended, or repealed at any time, two-thirds of the Legislature concurring. This act to be in force from and after its passage.

CHAPTER XXXIX.

An Act to incorporate the Bloomington Band.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John McCrea, of the county of Lawrence, Austin Seward, Thomas H. Carson, Jonathan Rogers, William Turner, William J. Flury, Johnson McCollough, Richard Harrod Hunter, Frederick D. Deming, Solomon W. Morgan, Albert Johnson, John C. Harbison, Thomas Hunter, John M. Jones, James Seward, William Legg, Alexander M. Murphy, and John M. Seward, of the county of Monroe, and their associates and successors, be and they are hereby constituted and declared to be, a body corporate and politic, by the name and style of the "Bloomington Band;" and by that name shall have perpetual succession, with full powers and authority to contract and be contracted with, to sue and be sued, plead and be impleaded, in any court of law and equity; to make, use, and have a common seal, and the same to alter at pleasure; they shall have power to elect their own officers, to adopt a constitution, to make, ordain, establish, and enforce such by-laws, rules, and ordinances, under said constitution, and not inconsistent with the constitution and laws of the United States or of this state, as they may deem proper.

SEC. 2. That so much of the provisions of an act, entitled, 'an act to incorporate the Marion Guards, and for other purposes,' (approved, February 14th, 1838,) as said Band may see cause to adopt, be and the same are hereby declared to take effect accordingly in favor of said "Bloomington Band;" *Provided, however,* That the said Band shall, by their principal officer, cause a certified copy of such of the provisions

of the before recited act, as said Band may adopt, to be filed in the clerk's office of Monroe county, in the state of Indiana; which said certified copy shall be recorded in the recorder's office of said county, for the doing of which the recorder shall receive a fee of fifty cents, to be paid by said "Bloomington Band," and said principal officer shall also file a certified copy of the same in the office of the secretary of state, within the time aforesaid. This act to take effect and be in force from and after its publication in the Bloomington Post.

CHAPTER XL.

An Act to amend an act, entitled, "an act to incorporate the Richmond and Brookville canal company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That nothing contained in the thirteenth section of the act to which this is an amendment, shall be so construed as to prevent the said Brookville and Richmond canal company, from organizing and commencing the canal at any time after the sum of two hundred thousand dollars shall have been subscribed or appropriated.

SEC. 2. That a failure on the part of said company to become organized by the time specified in the 24th section of the act to which this is amendatory, shall not work a forfeiture of the charter; *Provided,* the said corporation shall become organized within three years from and after the passage of said act. This act to take effect from and after its passage.

CHAPTER XLI.

An Act supplemental to an act, entitled, "an act to incorporate the Rushville Steam Mill Company, approved, January 27th, 1839."

[APPROVED, FEBRUARY 13, 1839.]

WHEREAS, the above mentioned act does not as clearly express the extent of corporate powers to be exercised by said company, as is wished for by those who have become subscribers of stock therein; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That said company, when fully organized under the provisions of the

act to which this is supplemental, shall be able and capable in law to procure, erect, and build, any steam or water works, houses, grist mill, saw mill, or other improvements that said company may deem expedient for the prosecution of any branch of manufacturing or mechanical business, and to cause and procure the machinery belonging thereto, to be propelled by steam or water power; and also to purchase, sell, trade, or barter goods, chattels, wares, and merchandize.

SEC. 2. This act to be taken in all courts of justice as a public act, and to be in force from and after its passage.

CHAPTER XLII.

An Act to incorporate the New Harmony Working-man's Institute for mutual instruction.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Cooper, Edward Cox, James Sampson, Samuel Bolton, and Thomas Munford, and their associates and successors in office, are hereby constituted a body corporate and politic, and shall be known by the name of the "New Harmony Working-men's Institute for mutual instruction," and by that name shall have power to sue and be sued, to adopt the constitution now existing in said society and the same to alter or amend, to make and use a common seal, to hold real estate and personal property, provided the same consist in such buildings, lots of land, books, apparatus and other personal property as may be required for the purposes of the association, and not otherwise, and provided the same shall not exceed in value fifty thousand dollars, and to sell or otherwise dispose of the same; and the said association shall have power to make by-laws, and to do and perform all other acts necessary to carry into effect the objects of the institution not contravening the laws of the state of Indiana, or the laws of the United States.

SEC. 2. The objects to be promoted by this society shall be the mutual instruction of its members and the promotion of useful knowledge, by the aid of books, lectures, and apparatus. And its property shall never be applied to any other purpose, under penalty of the forfeiture of this charter.

SEC. 3. This act may be repealed by a vote of two-thirds of each branch of the legislature, and shall take effect and be in force from and after its passage.

CHAPTER XLIII.

An Act to incorporate the Centreville Musical Institute.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Thomas Wilson, Norris Jones, M. W. Jack, Thomas J. Bargess, J. M. Sackett, Washington Harris, Benjamin Jemison, Henry Brown, Josephus Williams, William S. Holt, C. J. Fisher, John Talbot, John Stratton, Robert Denwiddie, Eli Jones, and John Dill, together with such other persons as may be permitted to associate themselves under the regulations of the company for the purpose of forming a musical band in the town of Centreville, Wayne county, Indiana, be, and the same are hereby constituted a body corporate and politic, and by the name and style of the President, Secretary, and Treasurer of the Centreville Musical Institute, shall be able and capable in law and equity to sue and be sued, defend and be defended, answer and be answered unto in any and all courts whatsoever.

SEC. 2. Said company may appoint a president, secretary, and treasurer out of their own body, who shall severally hold their officers, and perform their duties as may be required of them by the by-laws which they may adopt for that purpose; and a majority of said company are authorized to pass from time to time such by-laws, rules, and regulations, alter and amend the same, and inflict such forfeitures and penalties as may be necessary to enforce and carry them into effect, and to promote and carry into full effect the objects of this institution, not inconsistent with the constitution of this state or of the United States.

SEC. 3. Said corporation may at any time add to their number or expel members in such manner as they may provide in their by-laws; they may receive donations in money, property, or musical instruments, and hold or devote the same for the purposes of the institution; they may make up a capital stock not exceeding two thousand dollars, in shares of five dollars each, to be taken and held by their members to be appropriated to the procuring of instruments, books, or instruction; and by a vote of all the members of the institute, they may sell any or all of the property belonging to them, and divide the proceeds among the members in proportion to their stock.

This act to take effect and be in force from and after its passage.

CHAPTER XLIV.

An Act to extend the corporate limits of the town of Rising Sun, in Dearborn county.

[APPROVED, FEBRUARY 9, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the corporate jurisdiction of the town of Rising Sun, in Dearborn county, shall be extended to and be comprised within the following boundaries, to-wit: Beginning at low water mark on the Ohio river, one hundred and twenty rods below First or Pennsylvania street, thence north sixty degrees, west one mile to a stake; thence north thirty degrees, east one mile and a quarter to a stake; thence south sixty degrees, east to the Ohio river; thence down the said river to the place of beginning. Nothing contained in this act shall be so construed as to prevent the corporate authorities of said town from levying taxes on property in said corporation outside of the building lots as recorded, or on lots of land adjoining said lots or streets, not exceeding one acre of land.

SEC. 2. That the said corporation shall be a road district, and all roads, streets, or alleys in said corporation shall be opened and kept in repair according to the ordinances or by-laws thereof; and all persons subject to work on roads by the laws of this state, who may reside within the corporate limits of said town, though he or they may not reside on the recorded plat of said town, shall be subject to work on the roads or streets, agreeably to the by-laws of said corporation, and shall be entitled to vote at all elections in said corporation.

SEC. 3. That all building lots which may hereafter be laid off adjoining the building lots of said corporation as at present recorded, and extending over the boundaries of said corporation as described in the first section of this act, shall be considered part of said corporation and become part thereof without further legislation thereon.

This act to be in force from and after its publication in the Rising Sun Journal.

CHAPTER XLV.

An Act to amend an act entitled "an act to incorporate the city of Logansport; approved February 17, 1838."

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the election of the mayor, five aldermen, one recorder, and one

treasurer, held in the city of Logansport, in the state of Indiana aforesaid, on the first Tuesday of April last, to-wit: In 1838, agreeably to the provisions of the third section of the act entitled "an act to incorporate the city of Logansport, approved February 17, 1838," be and the same are hereby legalized and declared valid in law and equity, as much so as if the said act had been published prior to said first Tuesday of April, 1838.

This act to take effect and be in force from and after its passage.

CHAPTER XLVI.

An Act to incorporate the Bedford Band of Musicians.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Michael A. Malott, John Edwards, John Glover, Thomas J. Francis, Joseph Albertson, Hiram H. McLane, John Reed, Samuel Mitchell, John Mitchell Sen., John Mitchell Jr., James Glover, Alfred H. Ham, John F. Walker, Alpheus Phelps, Alfred Glover, and Robert M. Alexander, of the county of Lawrence, their associates and successors, be and the same are hereby constituted a body politic and corporate, and shall be known by the name and style of "The Bedford Band;" and by that name shall have power to contract and be contracted with, to sue and be sued, plead and be impleaded in any court of legal proceedings; they shall have power to elect or appoint their own officers in such way and manner as may suit them to make, ordain, and enforce such rules and by-laws as they may see proper, not inconsistent with the constitution and laws of the United States or of this state.

SEC. 2. *And be it further enacted,* That so much of an act incorporating the "Marion Guards," approved February 14th, 1838, as they may see proper to adopt, be and the same is hereby extended to the Bedford Band: *Provided, however,* that before they shall have the benefit of said act, they shall cause a manuscript copy of such part or parts thereof, attested by their proper officers, to be filed in the office of the clerk of the Lawrence circuit court.

This act to take effect and be in force from and after its passage.

CHAPTER XLVII.

An Act to incorporate the Citizens' Basin in Milton, Wayne county, Indiana.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Isaac Frampton, Josiah Hartley, George D. Morris, John Talbort, Jr., Solomon Meredith, James Brown, and Joseph Ferris, and their successors in office, are hereby declared a body politic and corporate, by the name and style of the "Presidency and Directors of the Citizens' Basin," by which name they shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto in any and all courts of justice whatever; have perpetual succession, and be capable of purchasing, holding, bargaining, selling, and conveying any property, either real or personal, for the use of said Citizens' Basin, either by legal or equitable title; and to enforce the necessary by-laws and regulations for carrying into effect the provisions of this act, and the objects contemplated by the same.

SEC. 2. The directors above named, shall at such time and place as they may agree upon, previous to the first day of April next, proceed to elect a president, a secretary, also a treasurer from among the subscribers for the construction of said canal basin, to continue in office one year from the time of their election.

SEC. 3. Such treasurer before entering on the duties of his office, shall execute a bond with security, to be approved of by a majority of the trustees, in a penal sum of two thousand dollars, and that he will pay over, and deliver to his successor, on the order of the directors, all moneys or property that may have come into his hands by virtue of his office, as treasurer of said basin.

SEC. 4. The directors above named, and the president and directors to be hereafter elected under the provisions of this act, shall have power to make and use a common seal, and the same to alter and change at pleasure.

SEC. 5. A majority of the directors shall constitute a quorum, and have power to fill vacancies in their own body, to serve until the next annual election and until others are elected and qualified in their stead.

SEC. 6. The said directors shall have power at any time to receive any and all subscriptions for the construction or repair of said basin.

SEC. 7. The shareholders shall meet at some convenient place in the town of Milton, on the first Monday in March annually, for the purpose of electing seven directors, who shall be subscribers for the building and construction of said basin; and the directors thus elected, shall meet, and after being qualified into office, proceed to elect one of their number to serve as president of the board, and such president

and directors shall continue in office until the next annual election, and until their successors in office are elected and qualified. If from any cause there should be no election on the day appointed by this act, it shall be lawful to hold the election on any other day.

SEC. 8. All elections shall be conducted by two judges appointed by the subscribers to said basin, and the persons having the highest number of votes given and counted in public, shall be declared duly elected in all elections; each subscriber shall be entitled to one vote, and any person having a right to vote, may vote by proxy.

SEC. 9. The directors shall have power to appoint all other officers and agents necessary to carry into effect the objects of this act. They shall keep a journal of their proceedings, in which shall be entered all rules, by-laws, regulations, orders &c., they may set on their own adjournments, or on the call of the president, and in his absence may appoint a president pro tempore.

SEC. 10. That any person or persons who may injure, destroy, damage, or in anywise molest or disturb the said basin, or any of the appurtenances or fixtures thereto belonging, or any of the real estate of said corporation, shall forfeit and pay to said corporation the sum of five dollars, and all damages that said corporation may sustain thereby, to be recovered in the name of the said corporation, by action of trespass, before any court having competent jurisdiction.

SEC. 11. This act to be in force from and after its passage, and may be altered and amended at any time by two-thirds of the legislature concurring.

CHAPTER XLVIII.

An Act to incorporate the Connersville Manufacturing Company.

[APPROVED FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Asher Cox, Ryland T. Brown, Elisha Vance, James Ford, Elijah Vance, Theodore R. Lewis, together with all other persons who are, or may hereafter become stockholders in pursuance to the provisions of this act be, and they are hereby declared and constituted a body corporate and politic, by the name and style of the "Connersville Manufacturing Company," with a capital stock of not less than five thousand dollars nor more than one hundred thousand, in shares of fifty dollars each; and all similar powers, privileges, and restrictions that are granted to the "Richmond Trading and Manufacturing company," by an act approved January 4th, 1837, except that which relates to capital stock as above stated.

SEC. 2. This act may be amended or repealed by a vote of two-thirds of the members of each branch of the General Assembly.

This act shall take effect and be in force from and after its passage.

CHAPTER XLIX.

An Act to incorporate the Rob Roy Manufacturing company.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Israel T. Canby, Cornelius T. Winans, Harley Greenwood, Daniel Myers, George S. Fleming, John Bodley, and Chauncey Scott, and all such persons as shall become stockholders, agreeably to the provisions of this act, shall be and they are hereby constituted a body politic and corporate, in fact and name, by the title of "the Rob Roy Manufacturing company," and by that name they and their successors shall and may continue for the term of fifty years from and after the passage of this act, and shall and may sue and be sued, plead and be impleaded, answer and be answered unto, in all courts and places whatsoever; and shall have power to make and use a common seal, and the same to alter and renew at pleasure, and also to adopt, establish and carry into execution such laws, ordinances, and regulations, as shall be by its president and directors judged necessary or convenient for the government and management of the said company, its officers, agents, superintendents, and property; and the same to change, alter, repeal, annul, and re-enact: *Provided*, that such laws, or ordinances, and regulations, be not contrary to this act of incorporation, the laws and constitution of the United States, or of the state of Indiana.

SEC. 2. The corporation shall have the right and power to enter into from time to time, the manufacture of all or any articles of general utility, of goods, wares, and merchandize, as they may deem best; to construct, and during its existence, to build and erect suitable buildings for the purpose of carrying on such manufactures as may be thought beneficial to the interests of the said corporation, and at such places as may be deemed most eligible, either on the stream of Shawnee, or elsewhere, within the county of Fountain, and state of Indiana; to erect machinery to be propelled by any power most suitable for such purpose, and for the convenient use of the same.

SEC. 3. The said corporation are hereby empowered to purchase, receive, and hold such lands and real estate, as may be necessary and convenient for the accomplishing the objects for which this act of incorporation is granted and made, and such other plats of land as shall be necessary for the erection of ware houses, engine houses, workshops, stables, and other buildings; and may also acquire, and hold, and possess the same by purchase, completely vesting in the said corporation absolutely in fee simple, the same, with power and authority in law to pledge, mortgage, bargain and sell, and convey the same, to aid in carrying into full effect the interest and objects of this act of incorporation.

SEC. 4. Conveyances of real estate to be made to the president as trustee for the company.

SEC. 5. The capital stock of this corporation, hereby created, shall be two hundred thousand dollars, to be divided into shares of fifty dollars each, which shall be deemed personal property; for which certificates of stock shall be issued to the stockholders, signed by the president, and may be transferred on the books of the said corporation, to be kept for that purpose, and not otherwise; in which case, the old certificates shall be surrendered, and new ones issued. No stock shall be transferred by any stockholder, when any debt is due or is then owing and to become due from such stockholder, but by the consent of the directors or a majority of them. The stock shall be considered as personal property, and may be sold on execution, and transferred on the books of the company by the officer selling the same, but in all cases be subject to a lien in favor of the company for all debts bona fide due, or then owing, or to become due for the same from the owner.

SEC. 6. That the persons named in the first section of this act, shall be and they are hereby appointed commissioners, whose duty it shall be within three years from the passage of this act, to open books and to receive subscription to the capital stock of said company or corporation, at such time or times, or place or places, as they or a majority of them may think proper, giving notice thereof at least thirty days prior to the opening of said books, in which of each books the following entry shall be made, "We, the undersigned, promise to pay the sum of fifty dollars for each share of stock set opposite to our names, in such manner and proportions, and at such times as the president and directors of the Rob Roy manufacturing company may direct. Witness our hands, this day of 18." That the said books shall be kept open as long as the said commissioners, or a majority of them, shall think proper or until the sum of thirty thousand dollars shall have been subscribed for.

SEC. 7. As soon as three hundred shares of said stock shall be taken, and five dollars on each share are paid to the commissioners, it shall be the duty of the said commissioners, or a majority of them, to give four weeks notice thereof in one or more of the newspapers; and in such notice appoint a time and place for the stockholders to meet and elect seven directors, and such election shall, then and there be made by such of the stockholders, either in person or by proxy; each share of the capital shall entitle the owner to one vote; any two or more of the said commissioners shall be inspectors of the first election of directors of said company, and shall certify under their hands the names of those duly elected by a plurality of votes given, and deliver over the subscription money, books and papers to said directors; and the time of holding the first meeting of the said directors shall be fixed by said commissioners.

SEC. 8. The first directors to be elected shall hold their offices for two years, and until others are elected; and every election of directors thereafter shall be held annually, at such places as shall be fixed by the by-laws, on the first Monday in May in each and every year,

notice of the same being given in such manner as the by-laws shall direct. Every election shall be held under the inspection of three stockholders, not being directors, who shall be previously appointed by the board of directors; all elections shall be by ballot, and a plurality of votes given, either personally or by proxy, shall constitute a choice; no stockholder shall be eligible to the office of director, unless he shall own at least to the amount of one hundred dollars of stock in the said corporation. In case an even number of votes shall be given for any two or more directors, the remainder of directors shall, by ballot, determine which of said persons, so having an equal number of votes, shall be entitled to a seat at the board.

SEC. 9. That in case it should so happen that an election for directors shall not be made on any day, when, pursuant to the act, it ought to have been made, the said corporation shall not for that cause be dissolved; but such election may be held at any other time directed by the by-laws of the corporation, within ninety days after the day on which it should have been held; and the directors shall continue to act until a new board shall be elected.

SEC. 10. That the said directors, or a majority of them, may supply any vacancy accruing [occurring] in the interval between the annual elections, by the death, resignation, removal, or refusal to act, of any president, or director; and may appoint a treasurer, a secretary, and all other officers, engineers, superintendents, and servants, that may be required to transact the business of the company, with such compensation as they may determine upon; and may exact from them such security for the due performance of their respective duties, as they may think expedient. The said directors, as soon as convenient after their election, shall elect one of their number to be president of the board of directors, whose duty shall be defined by the by-laws of the corporation.

SEC. 11. That five directors of said corporation shall form a board, and they, or a majority of them, shall be competent to transact all the business of the corporation; and it shall be lawful for the said directors to require payment of the sum to be subscribed to the capital stock, at such time, and in such proportions, and on such conditions, as they shall deem fit and right; and shall give notice of the payment thus required, and of the place and time the same is to be paid, at least twenty days previous to the day of payment, in some newspaper printed in the state, nearest the town of Rob Roy. Should any failure of payment on any instalment take place, on the part of any subscriber for said stock, then, and in such case, the party failing shall be liable for the instalment so required, to the president and directors of said corporation, to be recovered in an action of debt; or it shall be at the option of the said directors, after such notice given, that, if a shareholder neglect to pay his instalment so required, his shares may be forfeited to the association, as also the money previously paid in; and the said directors are authorized to receive new subscriptions to any of the capital stock not previously taken and subscribed for, until the capital stock shall amount to two hundred thousand dollars, under such

regulations as they shall prescribe by the by-laws, and to give notice thereof at least thirty days previous to the opening of the books to receive such subscriptions.

SEC. 12. The whole of the stock of the corporation shall be deemed personal property, which, together with all tools, implements, machinery, and apparatus of every description, used and employed, or on hand and belonging to the said company, shall be liable to be seized, executed and sold, after judgment or decree, to make good any contract, agreement, or stipulation, made by any agent, superintendent, or other authorized person or persons of said company.

SEC. 13. That it shall and may be lawful for the president and directors of the corporation, to borrow money from time to time, for the sole purpose of carrying on the objects of this corporation, and for the erection of suitable buildings and machinery necessary therefor, and to pledge the property of the company or corporation, real, personal, and mixed, for the re-payment thereof, with the interest thereon accruing.

SEC. 14. That a general meeting of the stockholders shall be held annually, at such time and at such places within the county of Fountain, as the directors of the said corporation shall direct; at which time an election for directors shall take place; to which meeting the directors of the previous year shall exhibit an exact and particular statement of the state, condition, and affairs of said company, verified by the oath or affirmation of the president, or of the vice president, or secretary; and general meetings of the stockholders may be held at any other time when ordered by the board of directors of the corporation; and the president shall have power to call special meetings of the board of directors whenever he may find it necessary, and to do and transact all other business naturally appertaining to his office, or conferred upon him by this act, or by the by-laws of the said corporation; and the said directors shall have power to regulate and control the dividends of profits, so that the capital stock shall not be diminished.

SEC. 15. That it shall not be lawful for the said corporation, after the first day of January, eighteen hundred and eighty-nine, to continue the business of manufacturing; and all the powers herein conferred shall cease, except those incidental and necessary to collect and close up its business; *Provided*, the General Assembly may not renew this charter previous to the time of its expiration.

SEC. 16. This act shall be taken and received in all courts, and by all judges and magistrates, and other persons, as a public act, and all printed copies of the same, which shall be presented by or under the authority of the General Assembly, shall be admitted as good evidence thereof, without any other proof whatever.

SEC. 17. That each stockholder shall be individually liable for the debts of said corporation, contracted during the time he or she was or is a stockholder; *Provided, however*, that no individual liability shall attach, until the effects of the corporation are first exhausted, or an execution returned no property found; *And provided further*, that such

individual liability shall not extend beyond the amount of stock subscribed and not paid in.

SEC. 18. The Legislature shall have power to repeal, alter or amend, this charter at any time, by a vote of two-thirds of all the members. This act to be in force from and after its passage.

CHAPTER L.

An Act amendatory to an act incorporating the town of Indianapolis, in Marion county, approved, Feb. 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall hereafter be the duty of the common council of Indianapolis, to open and keep in good repair all streets and alleys running through the donation lands; abate nuisances; and impose such forfeiture and penalties as will prevent the deposite of dead animals and other obstructions in the streets and alleys co-extensive with the donation.

SEC. 2. *And be it further enacted,* That in no case whatever shall the common council of Indianapolis, levy or collect any taxes of money or labor, from the inhabitants of the donation on the west side of White river, for any use or purpose of the corporation proper, not more than is necessary and sufficient to keep in good repair all streets and alleys running through the donation on that side of the river. This act to be in force from and after its passage.

CHAPTER LI.

An Act to revive and amend an act to incorporate the town of Bethlehem, in Clark county, approved, February 6th, 1837.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled, "an act to incorporate the town of Bethlehem, in Clark county, approved, Feb. 6, 1837," be, and the same is hereby revived, so far as relates to the powers and duties of the trustees of said town.

SEC. 2. That Henry Fix, John Cummings, Samuel H. Rodgers, Thomas P. Armstrong, and John Holly, be, and they are hereby ap-

pointed trustees for said town, and shall hold their offices [offices] and act as such until the second Monday in June next, and until their successors are elected and qualified.

SEC. 3. An election for five persons, to act as trustees of said town, shall be holden on the second Monday of June next, and shall be conducted by the provisions of the act to which this is an amendment. This act to be in force from and after its publication in the Indiana Journal.

CHAPTER LII.

An Act to incorporate the town of Laporte.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the trustees to be elected under the provisions of this act shall be, and the same are hereby declared to be a body politic and corporate, by the name and style of the "trustees of the town of Laporte," and by that name and style, shall be able, and capable in law and equity to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of competent jurisdiction; to make, use, and have a common seal, and the same to break, alter and renew at pleasure; to ordain, order, establish and put in execution, such by-laws and rules, as they shall deem proper and necessary for the good government of said town, subject to the restrictions and limitations hereafter provided, and not inconsistent with the laws and constitution of this state.

SEC. 2. The qualified voters of said town, shall, on the first Monday in April, A. D. 1839, proceed to elect five trustees for said town, for the year next ensuing thereafter; and this act shall be taken and deemed a sufficient notice of the time of holding said election; said election shall be held at the court house, in said town; William Frye and Henry Frederickson, of said town, are hereby appointed inspectors of said election. They shall call to their assistance, one other qualified elector of said town, who, with themselves, shall be judges of said election. They shall appoint a clerk, and, after having taken an oath faithfully to discharge their duties as judges and clerks, shall proceed to receive votes for trustees, between the hours of ten o'clock, A. M., and four o'clock, P. M., on said day; in case of the death, resignation, or refusal to serve, of one or both of the above named inspectors and judges of said election, his or their vacancies may be supplied by a viva voce vote of the qualified voters of said town: *provided*, ten voters are present.

SEC. 3. On the first Monday in April, annually, there shall be an election held at the court house, to elect, by ballot, five trustees; at

which election, all free, white male citizens of the age of twenty-one years and upwards, who shall have lived in said town one year previous to said election shall be allowed to vote.

SEC. 4. It shall be the duty of the trustees to cause a notice at least ten days, to be given of such election, either by publication in some newspaper, published in said town, or by written notices set up in three of the most public places in said town. The president of the corporation shall act as inspector of said election; he shall call to his aid, two other qualified electors of said town, who, with himself, shall be judges of the election. They shall appoint a clerk, and having taken an oath or affirmation, faithfully to discharge their duties as judges and clerk, shall proceed to receive votes for trustees as aforesaid: *Provided, however*, that if the president shall not be present, or shall be disqualified from acting, by any cause, the trustees may appoint one other to act in his place at such election: *Provided, also*, should the electors fail to meet and elect trustees at any annual election, the corporation thereby, shall not be dissolved; but the trustees, then in office, shall so continue, until others are elected and qualified, at an annual election.

SEC. 5. It shall be the duty of the judges of such election, to certify, under their hands and seals, the names of the five persons who received the highest number of votes, which certificate shall be filed, and put upon record, by the clerk of the corporation, whose duty it shall be to deliver a copy thereof, to each of the five trustees so elected, which certificate shall be sufficient authority for such person to act as trustee.

SEC. 6. The trustees thus elected, or a majority of them, shall meet, and, after having taken an oath or affirmation, faithfully and impartially to discharge their duty as trustees, shall elect one of their body as president of their meetings; but in case of his absence, a president, pro tempore, may be appointed. No person shall be elected trustee, unless he be a qualified elector of said town. When vacancies happen by death, resignation, or otherwise, such vacancy shall be filled by appointment of the trustees, until the next annual election. A majority of the trustees shall, at all times, form a quorum; they shall meet on their own adjournments, shall appoint all officers necessary to carry into effect the provisions of this act, and shall make such compensation as to them shall seem reasonable and proper.

SEC. 7. It shall be the duty of the president to sign all laws, ordinances, and decrees of a public nature, and also to sign the records of all their by-laws and journals or minutes of the proceedings of the board of trustees.

SEC. 8. The corporation shall have power to assess and collect a tax annually, on real property, not to exceed one half per cent. on its valuation, including improvements on such property, or any specific article or articles of personal property; a poll tax on each qualified voter, not exceeding fifty cents each, on all shows and exhibitions. The corporation may, in addition to the above tax, levy and collect on real

property, a tax, not exceeding one half per cent. on its valuation, including improvements, for the purpose of purchasing a fire engine.

SEC. 9. The corporation shall have power to pass such laws, ordinances, or decrees as may be necessary to guard against damages by fire; to organize fire companies, and govern the same, to regulate the duty and conduct of the citizens of the town, in relation thereto; to regulate and govern markets; to prevent the erection of nuisances, and to remove the same; and generally to enforce by proper penalties, ordinances relative to the police and government of said incorporated town.

SEC. 10. The powers of the corporation for the purpose of raising a revenue by taxation, shall extend to the now corporate limits of said town, and the said corporation; its jurisdiction for the purpose of removing nuisances and to carry into full and complete effect, its laws and ordinances, one full half mile beyond the limits aforesaid. The term nuisances shall be taken and construed to mean any thing, and every thing, which may have a tendency to injure the health of the inhabitants of said corporation.

SEC. 11. The corporation shall, in the month of May, in each year, appoint a lister, who shall take an oath of office, and give bond and security, to be approved of by the corporation, conditioned for the faithful discharge of his duties as lister; he shall proceed forthwith to make a fair list, in alphabetical order, of all persons subject to a poll tax, and such personal property as the corporation may direct him to list; also all lots and fractions of lots, particularly noting the number, owner's name, if known, and whether resident or non-resident; having completed such assessment, he shall call to his assistance, two freeholders, who, having been sworn faithfully and impartially to value the real property, including improvements so listed, shall, with the lister, proceed to value the same; and such lister shall, on or before the first day of July next succeeding, make returns to the clerk of the corporation, of such list and assessment.

SEC. 12. The corporation in the month of July, in each year, shall levy a tax on the property so listed and returned by the lister, and appoint a collector, who shall take an oath faithfully to discharge his duties as collector, and shall give bond with security, to be approved of by the trustees of said town, conditioned for the faithful performance of his duties as such collector, and that he will faithfully pay over all moneys, which may come into his hands as such collector, to the treasurer of the town, or such person as may be authorized to receive the same, which bond shall be made payable to the trustees of said town, and may be sued on by them, or their successors in office. Said collector shall hold his office one year, unless sooner removed.

SEC. 13. It shall be the duty of the trustees to make out a fair list of all the persons chargeable with a poll tax, with personal property and with real property, with its valuation, setting forth the owner's name, (if known) the amount of tax chargeable to each person, and the amount charged on each article; and shall deliver the same to the collector, within two weeks after his appointment, and shall certify the

amount of tax charged on such list to the treasurer; such list so put into the hands of the collector, certified by the president, and attested by the clerk, shall be sufficient authority for the collector to proceed to collect the same.

SEC. 14. It shall be the duty of the collector to receive the amount of taxes due from each individual, on or before the first day of November in each year, and in all cases where the taxes assessed, are not paid by that time, by any individual, it shall be the duty of the collector, to proceed and collect the same by distress and sale, giving ten days previous notice of the time and place, by setting up three advertisements, in three of the most public places in said town.

SEC. 15. That in all cases, where the taxes due and owing cannot be made of the goods and chattels of such delinquent, it shall be the duty of such collector to make sale of the lots or fractions of lots belonging to such persons, or so much thereof as will pay the taxes and costs due, giving twenty days notice of the time and place of such sale in some newspaper published in the county, if any, if not, by three advertisements posted in three public places in said town; in which notice he shall particularly describe the lot or lots to be sold, by their proper number, or some other certain description, with the owner's name, if known, or the name of the person to whom it is supposed to belong. The collector shall on the day of sale, by proclamation, proceed to sell the lot or lots to the highest bidder, or to the person who shall pay the tax or costs due for the smallest portion of said lot or lots; and shall give to such person a certificate of such purchase, setting forth the quantity sold, the amount paid, including tax and costs, and that such purchaser will be entitled to receive a deed at the end of two years thereafter, unless the owner or owners shall redeem the same on or before that time, by paying to said purchaser, his heirs, or assigns, the amount of the purchase money, with one hundred per cent. per annum thereon, or deposit the same with the clerk of the corporation.

SEC. 16. That in case the owner or owners of such lot or lots so sold as aforesaid, his, or her, or their agent or attorney shall not pay the amount of the purchase money with the per centum thereon as aforesaid within two years from the day of sale thereof, it shall be the duty of the collector, who shall then be in office, to make a deed to the purchaser, his heirs or assigns, for such lot or lots, which deed, acknowledged according to law, shall vest all right and title to said lot in the purchaser, and divest the original owner of any title thereto; and the assessment made on such lot or lots shall be a lien on the same in the hands of any person or after purchaser, who may purchase at private sale; and no conveyance made by the owner of such lot or lots after the time of such assessment shall so divest the owner or owners thereof as to interfere with the title of a purchaser under the provisions of this act: *Provided*, that in all cases when lots are listed and sold, and the owner's name not known, the sale shall be valid and good to the purchaser: *Provided*, that no lot or part of lot shall be sold for taxes or improvement under this act, unless personal property cannot be found on the premises or within the corporation to levy the same.

SEC. 17. The collector may adjourn his sale of lots from day to day for three days, and if at the end of that time any lot or lots should remain unsold for want of buyers, he shall make return thereof, and the amount of taxes and costs on such lot or lots, shall remain as a lien on such lot or lots, and shall be added to the next year's assessment, with one hundred per cent. thereon. The collector shall be allowed a fee of fifty cents for each sale and certificate, including the costs of advertising, unless the same be made in a newspaper, in which case a reasonable allowance shall be made to the printer by the board of trustees.

SEC. 18. It shall be the duty of the collector to make return of his proceeding, and the sales made to the clerk of the corporation, on or before the first day of November, annually, and annually pay over to the treasurer all moneys by him collected, at which time he shall furnish a list of delinquents, for which he shall receive a credit, if deemed correct.

SEC. 19. In all bonds given to the corporation by officers, and all contracts entered into with the corporation, said corporation shall be named "the Trustees of the town of Laporte;" and in all suits commenced for the benefit of the corporation and against the corporation, said corporation shall be styled the Trustees of the town of Laporte, without setting out the name of any member thereof.

SEC. 20. It shall not be lawful for any person or persons within the bounds of this corporation to sell any spirituous liquors in any quantity less than one quart, or keep what is commonly called a tipling house, unless such person or persons shall, in addition to a license obtained from the board doing county business, obtain a license from the trustees of said town, who are hereby authorized to grant the same to such applicant, for one year, such applicant paying into the treasury of the corporation a sum not less than fifty cents and not exceeding five dollars, at the discretion of the corporation; and if any person shall sell any spirituous liquors contrary to the provisions of this act, or shall keep a tipling house within the bounds of the corporation, without such license obtained from the board of trustees of said town after their first election, the person or persons so offending, on conviction thereof on presentment and indictment in any court of competent jurisdiction shall be fined in any sum not exceeding twenty dollars, nor less than five dollars for the use of the corporation: and said corporation is hereby authorized to appoint a marshal and such assistants as may be necessary, and pay them for their services out of the funds of the corporation; the said marshal, when appointed, shall take an oath to discharge his duties as such, and shall be a peace officer of said town, and shall act in such capacity under the direction of the trustees.

SEC. 21. That, whenever the owners of lots on any street shall be desirous of making any improvements on the same by grading, gravelling, or paving said street, or the side walks thereof, or of any part thereof, that two-thirds of the owners of real estate on said street, or section of street, shall by petition, represent to the corporation plainly and distinctly the improvements wanted or contemplated to be made,

it shall be the duty of the corporation to cause the same to be done in the best and most economical manner, according to the wish of the petitioners, and the expense shall be assessed and levied on all the lots fronting on said street, equally per foot front for the distance such improvement may be intended to extend, which assessment and levy from the time of making the same, shall be and remain a lien upon such lot or lots, until the amount of assessment and levy with the costs thereof, shall be paid or discharged; it shall be the duty of the clerk of the corporation to enter such petition of record, with the petitioners' names, and the number of feet front owned by each, and shall make out and deliver to the collector of the corporation a list of the owners' names, the number of feet front owned by each individual, the rate of expense on said lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot; which list, signed by the president of the board of trustees, and certified by the clerk, shall be sufficient authority for said collector to proceed and collect the same; and if the owner or agent of any lot or part of a lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy; the collector shall proceed to collect the same by sale of such lot or fraction of lot, or so much thereof as will pay the amount so levied; and in such sale, he shall in all respects be governed by the fourteenth section of this act, and the right of redemption shall be the same as in other cases of sales under this act.

SEC. 22. The corporation shall have power to pass all ordinances, laws, and rules necessary to carry into full effect the powers given them by this act; to abate nuisances; to make contracts for public improvements; and, if necessary, to borrow money to conduct the same. All ordinances of a public nature passed by the corporation shall be published, either in some newspaper published in said town, or by advertisements written and set up in three of the most public places in said town. And it shall be the duty of the corporation to cause a full statement of the receipts and expenditures of said town to be published in the same manner as directed in this section for the publishing of ordinances.

SEC. 23. Nothing in this act shall be so construed as to allow the said board of trustees to appropriate private property to public uses without the consent of the owners thereof.

SEC. 24. The treasurer, collector, and lister of said town shall give bond and security to the approval of said board; the condition of the bonds of the treasurer and collector shall be for the faithful discharge of their duties as such, and for rendering a faithful account of all moneys coming to their hands by virtue of their offices, and for the faithful payment of the same over to the board of trustees, when required by them, or to their order.

SEC. 25. It shall be the duty of the first trustees elected by virtue of this act to lay out the town of Laporte into five separate and distinct wards, which shall be entered of record on the corporation books; and at all elections after the first, one trustee who is a resident of each

ward shall be elected, and if vacancies occur in said board from any cause, such vacancy shall be filled by the appointment of a trustee or trustees, who resides in the ward or wards, where such vacancy occurred.

This act to be recognized as a public act by all courts.

CHAPTER LIII.

An Act to incorporate the Hagerstown and Winchester Turnpike Company, and for other purposes.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Michael Aker, Benjamin Hill, Absalom Hunt, Levi D. M'Kay, Henry Thornburg, George Bailey, Jeremiah Smith, Stephen Hueius, Jacob Ulrich, Nathan G. Lamb, David Heuston and Jacob Heuston, of the counties of Randolph and Wayne, and their successors in office, are hereby constituted a body politic and corporate, and by the name and style of the Hagerstown and Winchester Turnpike Company, "shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any and all courts of justice whatever; to make and use a common seal, and the same to alter, change or renew at pleasure; and shall be able and capable in law, to make contracts and enforce the same, and to make and enforce the necessary by laws, rules and regulations, to enable them to carry into effect the provisions of this act, and the objects contemplated by the same, not inconsistent with the laws and constitution of the state of Indiana.

SEC. 2. The directors named in this act, or a majority of them, may meet at such time and place as they may agree on, and organize said corporation, by electing one of their body president, and after such organization, any five of the board shall be a quorum, but after an election for directors it shall require a majority to form a quorum.

SEC. 3. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and other officers and persons necessary to carry into effect the objects of this act. They shall keep a journal of their proceedings, in which shall be entered all by-laws, rules, and regulations, and all orders for the payment of such allowances as may be made to their officers, and others in their employ; which journal shall from time to time be read by the board, and, if found to be correct, shall be signed by the president. They may sit on their own adjournments, or on the call of the president; when the president is absent, they may appoint a president pro tempore; they shall fill all vacancies which may happen in their own body,

SEC. 4. The capital stock of said corporation shall be thirty thousand dollars divided into shares of twenty-five dollars each: *Provided*, the amount above stated is insufficient to complete the said contemplated work, it may be increased to a sufficient sum to accomplish that purpose.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock, at such time or such place or places as they may choose, due notice of which shall be given; in each of which books the following entry shall be made: "We, the undersigned, promise to pay the sum of twenty-five dollars for each share of stock set opposite our names, in such manner and proportions, and at such times as the president and directors of the said corporation may direct. Witness our hands, this day of 18 "

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporate body, for the agent of any county, or of any state, or of the United States on behalf of the same, to subscribe for any amount of capital stock; and the books shall be kept open for such space of time, and at such place or places as the corporation shall choose, and may be re-opened at any time; and they may, by an agent, offer for sale, in any other state, any amount of stock, upon such terms and conditions, as may be thought advisable; and they shall have power, on their own credit, to borrow money on such terms as may be agreed on by the parties. The corporation may require such sum of money to be paid at the time of subscription, or at any subsequent time, not exceeding five dollars on each share, as they may think proper; but such requisition shall be made known by being inserted in the notice for opening the books, and any future payment on the stock shall be under the control of the corporation.

SEC. 7. As soon as three hundred shares are subscribed for, and five dollars paid on each share, it shall be the duty of the corporation to give four weeks notice thereof, in one or more newspapers, and in such notice appoint a time and place for the stockholders to meet and elect eleven directors, who shall be stockholders and citizens of this state; which election shall be held within one month after the last share in the three hundred shares was subscribed for; and shall be conducted by two judges appointed by the stockholders present; and the persons having the highest number of votes given and counted in public, shall be declared duly elected. No share shall confer a right to vote at any election, unless the same shall have been held one month previous to the election; in all elections, each share shall entitle the holder to one vote; and votes may be given by the person owning the same, or by one of any partners, or by the husband, father, mother, administrator, or executor, trustee or guardian, or by the authorized agent of any corporation, county, or state, or of the United States, or any person, having a right to vote, may vote by proxy.

SEC. 8. It shall be the duty of the directors elected as above, and those elected at all subsequent elections, to meet as soon thereafter as they conveniently can, and elect one of their own body president; the president and directors thus elected, shall continue in office until the

next annual election, and until their successors are elected and organized.

SEC. 9. All elections after the first, shall be held on the first Monday of September annually, under the direction of any three stockholders, not directors at the time, to be appointed by the board, at a private previous meeting, or by the stockholders present; of which election, notice shall be given: *Provided*, that if from any cause whatever, there should be no election held on the day appointed by this act, or by the directors, for the first election, it shall be lawful to hold the election on any other day.

SEC. 10. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held. They shall be signed by the president and countersigned by the clerk. The stock shall be transferrable on the book of the corporation only, personally, or by an agent, or attorney, or by the administrator, executor, trustee or guardian, but such stock shall at all times be holden by the corporation, for any dues from the holder thereof to the corporation, or for any sum that may hereafter become due, on a contract made prior to such transfer.

SEC. 11. The corporation shall have power to call for such proportions of the stock subscribed, not exceeding twenty-five per cent. of the amount of stock, every six months as they may think proper, to be paid at such time and place as they may designate, by giving sixty days notice in some weekly newspaper printed nearest the place where a majority of the stock is held, or by giving written notice to the stockholders: in all such notices the amount on each share demanded, and the time and place of payment shall be set forth; and if any stockholder shall neglect or refuse to pay such requisition, within ten days after the time named for such payment, the corporation may bring suit against such delinquent for the amount due, in any court of competent jurisdiction, and recover the amount with two per cent. per month interest thereon for such detention; and if the amount cannot be made on execution, or if such delinquent is out of the state, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon, and the same shall thereby be absolutely forfeited to the corporation, and no such delinquent before the forfeiture of his stock, shall have a right to vote for directors, or to receive any dividend on his, her, or their stock, until the corporation is fully paid and satisfied.

SEC. 12. The corporation shall require of all officers and others in their employ, bonds with security to their acceptance, with such penalties as they may think proper, for the faithful performance of their respective duties.

SEC. 13. The corporation, by their agents, shall have full power from time to time, to examine, survey, mark, and locate the route for a turnpike road, commencing at Hagerstown in Wayne county, and running on the best ground for the interest of the corporation and the convenience of the public, via Huntsville, in Randolph county, to Winchester, the county seat of said county, with full privilege to

diverge from a direct line, where more favorable ground can be had for the construction of said road.

SEC. 14. And for the purpose of making such examination and location, it shall be lawful for the corporation, by their agents and persons in their employ, to enter upon any land to make surveys and estimates, and for the purpose of searching for stone, gravel, wood, or other materials necessary for the construction of said road. But no such materials shall be taken away from any land, without the consent of the owner thereof, until the rate of compensation shall be ascertained and paid.

SEC. 15. It shall be lawful for the corporation, either before or after the location of any section of said road, to obtain from the person or persons through whose land the same may pass, a relinquishment of so much of said land as may be necessary for the construction and location of the road, as also the stone, gravel, timber, or other materials, that may be obtained on said route, and may contract for such materials that may be obtained on any other land near thereto; and it shall be lawful for said corporation to receive by donations, gifts, grants, or bequests, land, money, labor, property, stone, gravel, wood, or other materials, for the benefit of said corporation, and all such contracts, relinquishments, donations, gifts, grants, and bequests, made and entered into in writing, by any person or persons capable in law to contract, made in consideration of such location, and for the benefit of the corporation, shall be binding and obligatory, and the corporation may have their action at law or equity in any court of competent jurisdiction, to compel the observance of the same; *Provided*, that all such contracts, relinquishments, donations, gifts, grants, and bequests, shall be fully and plainly made in writing, and signed by the parties making the same.

SEC. 16. That in all cases where any person through whose land the road may run, shall refuse to relinquish the same, or where a contract between the parties cannot be made, it shall be lawful for the corporation to give notice to some justice of the peace in the county where such difficulty may occur, that such facts do exist, and such justice shall thereupon summon the owner of such land to appear before him on a particular day, within ten days thereafter, and shall appoint five disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess the damages, if any, view the land or materials, and after having taken into consideration the advantages as well as disadvantages the road may be to the same, report thereon whether such person is entitled to damages or not, and if so, how much, and shall file such report with such justice; whereupon said justice shall enter judgment thereon, unless for good cause shown; and in case either party show good cause why judgment should not be entered, the justice may grant a review of the premises either with or without cost; *Provided*, that either party may at any stage of the proceedings, appeal to the circuit court of the proper county, as in other cases, and such court shall appoint reviewers as above direct-

ed, who may report at that or the succeeding term, in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 17. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such land may be, such justice shall cause three notices of the application made, and the day fixed for the appointment of viewers, to be posted up in three of the most public places in the county, and if no person shall attend upon the day named in said notice, the said justice shall adjourn the same until that day two weeks, at which time he shall proceed as if such person or persons had been duly notified to attend; and on such judgments being rendered, and the corporation complying therewith, by the payment of such costs or damages awarded against them, the corporation shall be seized of the lands or materials; costs shall be allowed or awarded against either party at the discretion of the justice.

SEC. 18. That, if it should be found necessary and advantageous to the location and construction of said road, the corporation shall have the right to lay the same along and upon any state and county road; *Provided, however*, before such location shall be made, the corporation shall make application to the county commissioners of the proper county for such right, and such commissioners are hereby vested with power to grant the same by an order entered on their record.

SEC. 19. That when said corporation shall have procured the right of way as hereinafter provided, they shall be seized in fee simple of the right to said land, and shall have the sole use and occupancy of the same; and no person, body politic or corporate, shall in any way interfere with, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the profits of said corporation.

SEC. 20. The said corporation shall commence the construction of said road at either end, at the discretion of the corporation, any time within five years after the passage of this act, and may, from time to time, construct so much thereof as may be within their ability and to the interest of said corporation; *Provided*, that said road shall be completed within twenty-five years from its commencement, or in either case so far completed as to admit travel thereon; *Provided*, that should the road not be completed within the time aforesaid, the General Assembly may, for good cause shown, give further time to complete the same.

SEC. 21. The corporation may charge and receive such toll from all persons travelling, or for the privilege of driving all manner of live stock, wagons and teams, pleasure carriages, sleighs, &c., on said road, or any part thereof, as shall be for the interest of the company, and the same to change, lower, or raise, at pleasure; *Provided*, that the rates established from time to time, shall be posted up in some conspicuous place or places on said road.

SEC. 22. That when the aggregate amount of dividends declared shall amount to the full sum of capital invested, and six per cent. per

annum interest thereon, the boards doing county business in the counties of Wayne and Randolph, may so regulate the tolls and freights, that not more than fifteen per cent. per annum on the capital shall be divided, and no other or greater rates of toll shall be collected than shall be necessary to defray the contingent expenses of said road; but the corporation shall not be compelled by any law or regulation of said boards doing county business, to reduce the tolls and freights so that a dividend of fifteen per cent. cannot be made; and it shall be the duty of the corporation to furnish the said boards doing county business, at their fall term each year, with a correct statement of the amount of the expenditures, and the amount of profits, after deducting all expenses; which statement shall be made under the oath of the officer whose duty it shall be to make the same.

SEC. 23. The corporation may make dividends at such time as the board of directors may deem proper and expedient.

SEC. 24. That if any person or persons shall wilfully and knowingly injure or obstruct said road, or any part thereof, or shall break destroy, or deface any work, edifice, device, or toll gate belonging thereto, such person or persons so offending, shall pay to the corporation three times the amount of the damages actually done, with costs of suit, to be recovered by the corporation before any court having competent jurisdiction; *Provided*, that all actions commenced by the corporation for the recovery of damages, shall be commenced within six months from the time such cause of action accrued, and not after.

SEC. 25. It shall be lawful for the boards doing county business in the counties of Wayne and Randolph, to authorize by an order as much of the stock to be taken as they may think proper.

SEC. 26. It shall be the duty of the corporation to cause a full statement of the affairs of the company to be made and exhibited to the stockholders at every annual election, or at any other general meeting of the stockholders.

SEC. 27. Any number of the stockholders owning one-third of the stock, may call a general meeting of the stockholders, by giving four weeks notice in one or more newspapers, and specifying in said notice the object of the call; and, a majority of the stockholders being represented, they may make such order relative to the concerns of the company, as a majority may determine.

SEC. 28. The corporation may, by contract, admit the intersection of any other turnpike or other road, or any collateral road.

SEC. 29. When the road is located, it shall be the duty of the corporation to cause a plat of the same to be deposited and recorded in the clerks' offices in the counties of Wayne and Randolph, and from and after that time it shall not be lawful for said corporation to alter or change any parts of said location, unless said corporation pay to the owner or owners of said land, on said changed route, the amount of damages they may sustain by such re-location.

SEC. 30. That if said road after its completion, shall be suffered to go into decay, or be impassible for one year, unless when the same is repairing, this charter shall be taken and considered as forfeited. It

shall and may be lawful for the counties of Wayne and Randolph, at any time after the period of fifty years, to require said company to yield up and surrender to the said counties the said road, and all the privileges hereby conferred, on giving the said company one year's notice of such intention, and on paying the said company the value of said road, and other property connected thereto.

SEC. 31. *Be it further enacted*, That T. J. Buchanan, William Baker, Andrew Woods, Jacob Ulrich, J. C. Timons, of Wayne county, and Thomas Kimble, Robertson McIntyre, Amos Cowgill, William Macy, George D. Moore, and Barton Andrew, of Randolph county, be, and they and their successors in office are hereby constituted, a body politic and corporate, by the name and style of the Hagerstown and McKsville turnpike company, which said company shall have perpetual succession, and shall be able in law to sue and be sued, plead and be impleaded, and do and perform all other acts which said company might or by law could do, in furtherance of the object for which said company is so incorporated.

SEC. 32. All the privileges, rights and powers, which are by this act given and granted to the Hagerstown and Winchester turnpike company, be and the same are hereby granted to the above named Hagerstown and McKsville turnpike company.

SEC. 33. It shall be the duty of said company, after a sufficient amount of capital is subscribed, and the said company is organized, as is provided for the organization of the first named company, to cause a road to be located and constructed, commencing at some suitable point (within the county of Randolph,) on the said Hagerstown and Winchester company's road, from thence by the way Union Port to the town of McKsville, the power of joining which said last mentioned road to the first mentioned road, is hereby granted to said last mentioned company.

SEC. 34. If the Hagerstown and Winchester company shall not in good faith commence the construction of that part of said road between the point of junction above specified, within five years from the passage of this act, then, and in that case, the Hagerstown and McKsville company shall have the exclusive right to construct the same in such manner as they, the first named company, have a right to do. And should the said Hagerstown and McKsville company construct the said road, as is provided for in this section, then, and in that case, the Winchester and Hagerstown company shall have a right to join their work to the same in the same manner as above provided for the junction of the said Hagerstown and McKsville company to the Hagerstown and Winchester company; *Provided, however*, that the Legislature may at any time, alter, amend, or repeal this charter, by a vote of two-thirds of the members. This act to be in force from and after its publication.

CHAPTER LIV.

An Act to incorporate the Philomathean Society of Spencer County.

[APPROVED FEBRUARY, 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Proctor, John Smith, John Crawford, Yarrow C. Dodd and, Wilson Huff, and their successors and associates are hereby constituted a body politic and corporate, by the name and style of the "Philomathean Society of Spencer County," and by that name shall have power to sue and be sued, defend and be defended in any court of law or equity, shall adopt a constitution and establish such by-laws, rules and regulations as to them may seem proper, not inconsistent with the constitution and laws of this state and of the United States; shall have and use a common seal, and hold such books, apparatus, and other personal property as may become necessary to carry into effect the objects of the institution.

SEC. 2. The object to be promoted by this society shall be the establishment of a library, the dissemination of literature, and the improvement of the members generally in composition, polemic discussion and scientific knowledge.

SEC. 3. As soon as convenient, after the taking effect of this act, the persons named in the first section hereof, shall appoint a day and give notice thereof, for a meeting of the society, and proceed to organize the same by electing their officers; which shall consist of a president, treasurer, secretary, and three trustees, and all other officers necessary to promote the objects of this society, who shall hold their offices one year, and until their successors are chosen; and the said society shall meet according to their own appointments.

This act to be in force from and after its passage.

CHAPTER LV.

An Act to amend an act entitled "an act to incorporate the Mayor and Common Council of the Town of Lafayette," approved, February 6, 1837.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter any party to any judgment of the Mayor of said town, may appeal therefrom to the circuit court of Tippecanoe county, in the same manner and under the same restrictions, rules and regulations, as appeals are taken from judgments of justices of the peace; and said circuit court shall proceed to hear and determine the same in like manner, as they do appeals from the judgments of justices of the peace.

SEC. 2. That if a member of the council shall remove from the ward for which he was elected, such removal shall vacate his office.

SEC. 3. That all real estate and other property within the corporate limits of said town shall be subject to taxation whenever the same is recorded as town property, or situated on property so recorded or otherwise.

SEC. 4. That the civil jurisdiction of the mayor of said town shall be the same, and co-extensive with the jurisdiction of the justices of the peace who reside in said town, and the mayor of said town in conducting any civil business, shall in all respects be governed by the laws in relation to the powers and duties of justices of the peace.

This act to take effect and be in force from and after its passage and its publication in one of the newspapers printed in said town.

CHAPTER LVI.

An Act to amend an act entitled, "an act to incorporate the Town of Princeton, approved, February 14, 1838.

[APPROVED, DECEMBER 20, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Elias S. Terry, Willis Howe, Samuel Hall, Joseph Devin and John R. Montgomery be, and they are hereby appointed trustees of said town of Princeton, in Gibson county, to serve as such until the first Monday in May 1840, and until their successors are elected and qualified, as is prescribed in the act to which this is an amendment: *Provided*, the trustees hereby appointed shall be governed by the same rules and regulations and have the same powers and perform the same duties as if they had been duly elected at the time and place prescribed in said act.

SEC. 2. It shall be the duty of the keeper of the jail of said county of Gibson to receive into his custody, any person or persons who may be committed for a violation of any law of said corporation, and to safely keep every such person or persons according to the warrant or commitment until such person is discharged by due course of law.

SEC. 3. That the streets and highways within said town shall not be within the jurisdiction of any supervisor or supervisors, appointed or elected by the county authorities, and said town shall not be taken, deemed, or considered as a part of any road district or districts now existing, or which may hereafter be formed in said county.

SEC. 4. This act shall take effect and be in force from and after its publication in the Indiana Journal.

CHAPTER LVII.

An Act to incorporate the Columbus and Drift Wood Bridge Company.

[APPROVED, FEBRUARY 8, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all persons who shall become stockholders, pursuant to the provisions of this act, shall be, and are hereby constituted, a body politic and corporate, by the name and style of "The Columbus and Drift-wood Bridge Company," and by that name shall be capable of holding real estate sufficient for carrying into effect the purposes of this act, and of suing and being sued, defending and being defended, answering and being answered unto, pleading and being impleaded, in law and equity, in all courts of competent jurisdiction, and shall have authority to ordain and establish such by-laws, rules, and regulations, not repugnant to the constitution and laws of this state or the United States, as shall from time to time be found necessary, for the management and good government of the said corporation.

SEC. 2. The capital stock of said corporation shall be five thousand dollars, divided into shares of twenty dollars each.

SEC. 3. That John F. Jones, Aquilla Jones, James Gabbart, James H. J. Glantin, John C. Hubbard, shall be commissioners to open books for receiving subscriptions to the capital stock of said corporation, and the said books shall be opened on or before the first day of August, 1839, and each of said commissioners may receive subscriptions.

SEC. 4. That whenever one hundred shares shall have been subscribed to the stock of the said corporation, the said commissioners shall cause an advertisement to be inserted in some newspaper published in Columbus, giving at least four weeks notice of the time and place of meeting of subscribers to choose directors, and at the time and place appointed, the stockholders shall choose seven directors, being stockholders of said corporation, a quorum of whom shall be competent to transact business. A new election of directors shall be held annually, at such time and place as the stockholders at their first meeting shall appoint, and the directors chosen at any election, shall as soon thereafter as may be, choose out of their number one person to be president, and shall also appoint a secretary and treasurer.

SEC. 5. The directors may demand from the stockholders respectively, all such sums of money by them subscribed, at such times and in such proportions, as they may think proper, and in the penalty of forfeiting their respective shares and all previous payments thereon.

SEC. 6. The said corporation may erect a bridge across the east fork of White river at or near the town of Columbus, as shall be deemed most practicable.

SEC. 7. When the said bridge shall be completed, the said corporation may erect and maintain at either end of said bridge, and de-

mand and receive a toll not exceeding the rates following, to wit: Every four wheeled pleasure carriage, drawn by two horses, twenty-five cents; if drawn by four horses, thirty-one cents; every two wheeled wagon or cart, drawn by two horses or oxen, twenty-five; every two wheeled pleasure carriage, nineteen cents; every wagon or cart, drawn by four horses or oxen, thirty-seven cents; each sled or sleigh and two horses or oxen, nineteen cents; every one horse cart, sleigh, wagon, or cutter, twelve cents; every man and horse, ten cents; every foot passenger, six cents; every horse, mule, or jack, or head of neat cattle, four cents; every sheep, or hog, two cents. But all persons going to and returning from places of public worship, going to and returning from a grist mill with a grist, going to and returning from training, when doing duty in the militia, shall be exempt from paying toll.

SEC. 8. If any person shall wilfully impair or injure said bridge, he, she, or they, so offending, shall forfeit and pay to the said corporation ten dollars, to be recovered with costs of suit; and shall also be further liable to pay said corporation double the amount of damages sustained, with costs of suit, to be recovered in an action of trespass, in any court of competent jurisdiction.

SEC. 9. If any person shall forcibly pass the gate without having paid the legal toll, he shall forfeit and pay to said corporation five times the amount of the legal toll, with costs of suit, to be recovered before a justice of the peace by an action of debt.

SEC. 10. If any toll gatherer shall unreasonably hinder or delay any passenger at the gate, or shall demand and receive more than legal toll, he shall for every such offence forfeit the sum of five dollars, to be recovered with costs of suit before any magistrate, to the use of the person so hindered or delayed.

SEC. 11. The said bridge shall be built not less than twenty feet wide, and shall be secured well on each side by a railing not less than four feet high.

SEC. 12. If the said bridge shall not be erected and finished in five years from and after the passage of this act, then, and in that case, this act shall be null and void, otherwise to be and remain in full force for twenty-five years.

SEC. 13. The navigation of the east fork of White river shall be preserved free from obstruction, and the bridge shall be of sufficient height to admit loaded boats to pass under it at all times.

SEC. 14. That nothing in this act shall be so construed as to prevent the altering or amending any part of the same, by a vote of two-thirds of the Legislature. This act to take effect and be in force from and after its passage.

CHAPTER LVIII.

An Act supplemental to an act entitled, an act incorporating the Connersville and Fort Wayne Savings' Institution and insurance company.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That any and all balances due, or owing on stock taken in the Fort Wayne savings institution and insurance company, the payment thereof shall be secured to said institution and company by mortgage, on real estate, in the same manner the branches of the State Bank of Indiana secure the dues, on stock, in said branches.

SEC. 2. That said institution and company shall have the power to pledge the stock so received by mortgage on real estate, to raise money to carry out the objects of said institution and company. This act shall be in force from and after its passage.

CHAPTER LVIX.

An Act to amend an act, entitled, an act to amend an act, to incorporate the Buffalo and Mississippi Rail Road company, approved, February 7, 1839.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That to secure the payment of any sum of money borrowed by the Buffalo and Mississippi rail road company, under the 5th section of the act to which this is an amendment, the directors of said company have full power and authority hereby granted, to pledge or hypothecate by way of bond, with or without seal, mortgage, trust or otherwise, the rail road by them constructed under their charter, with all its privileges, appendages, appurtenances, and all property, franchises, and chartered rights of said company, and also any stock remaining unsubscribed or forfeited to said company by non-payment of instalments; and such pledge, hypothecation, bond, mortgage or trust, shall be valid for the securing of the payment of any sum or sums so borrowed, with the interest thereon, accruing which the same may be given so secure; and in case default shall be made in the payment of money so borrowed and secured, the person or persons, body politic or corporate, their legal representatives, successors or assigns, claiming under such pledge, hypothecation, bond, mortgage, or trust of stock, may, by due process of law, acquire, have, hold, use, occupy and enjoy the said road, with its appurtenances, implements and property of said company, and take and use the tolls, rents, issues, profits, and advan-

tages thereof, during the whole residue of the term for which said company is chartered, or incorporated in as full and complete a manner as the stockholders of said company could or might have had, used or enjoyed the same, subject nevertheless, to all the restrictions, limitations, and conditions, claimed in the act incorporating said company, and any stock so pledged or hypothecated, may, on failure of payment aforesaid, be sold at public auction, to the highest bidder, by the person or persons, body politic or corporate, to whom it may be pledged, or by their legal representatives, successor, or assign, giving twenty days previous notice in two newspapers on or near the line of said rail road, setting forth the time and place of such sale; and any deed, by which any pledge or hypothecation, bond, mortgage or trust shall be given by virtue of this act, shall be entered of record in the office of the recorders of counties through which said road may run, the same being first acknowledged, according to law.

SEC. 2. The boards doing county business in the several counties through which the Buffalo and Mississippi rail road passes, are hereby authorized and empowered to act as trustees for said company, to receive mortgages on real estate, or other securities in trust for said company, and issue county bonds thereon to such amount, (not exceeding two thirds of the value of the real estate so mortgaged, or other securities) and made payable at such time and place, and at such rate of interest (not exceeding eight per cent. per annum) as may be agreed upon between said board or boards doing county business, and the directors of said company.

SEC. 3. *And be it further enacted,* That the directors of the company, may at their option, declare any stock, with the amount paid thereon, forfeited to the company, on which the stock holder is delinquent for three or more instalments, any thing in the eleventh section of the original charter of said company, to the contrary notwithstanding. This act to take effect and be in force from and after its passage.

CHAPTER LX.

An Act to amend the act entitled, 'an act to incorporate the Perry County Seminary.'

[APPROVED, JANUARY 4, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the trustees of said seminary to have opened the doors thereof to any minister of the gospel, for the express purpose of Divine worship, any day in which school is not kept therein, upon application of any such minister or other person in his behalf; and if at any such time there are no trustees, such minister is hereby

authorized to enter with his audience and occupy the seminary during such Divine worship.

SEC. 2. The trustee or trustees who may refuse or neglect to open or cause to be unlocked, said door, upon application as aforesaid, shall be subject to a fine not exceeding five dollars, each to be recovered by presentment or indictment in the circuit court of said Perry county, unless good cause to the contrary be shown to the court.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER LXI.

An Act to amend an act entitled "an act to incorporate Michigan city," approved February 8, 1836."

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the north-east quarter of section thirty-eight, township thirty-eight, north of range four west, in the county of Laporte, and now included in the limits of the corporation of Michigan city, shall hereafter constitute, and its boundary lines form the limits of a village to be known and designated "City Niles."

SEC. 2. That so much of the act aforesaid as includes the above described lands within the limits of said city be and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER LXII.

An Act to amend an act entitled "an act to incorporate the Liverpool Bridge company," approved February 6, 1837.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall not be lawful for any person or persons, body corporate or politic to erect or build within a less distance than two miles of the Liverpool bridge, on Deep river in Lake county, any toll bridge or ferry.

SEC. 2. That said Liverpool bridge company shall have, in addition to the time allowed in the aforesaid act to complete said bridge, the term of two years.

SEC. 3. So much of the aforesaid act to which this is an amend-

ment, as comes within the purview of this act, be and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER LXIII.

An Act to amend an act entitled an act to incorporate the Mount Carmel and New Albany Rail Road company, approved February 4, 1837.

[APPROVED, JANUARY 2, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the eighteenth section of the act to which this act is amendatory, as prohibits said company from accepting donations or pre-emptions of lands from the Congress of the United States, be, and the same is hereby repealed, and that said company be authorized to receive and accept any donation or pre-emption of lands, which the Congress of the United States may make for the purpose of aiding in the completion of said road; which lands so donated or pre-empted shall enure to and be and remain for the use of said company, for that purpose.

SEC. 2. That the proceedings of the stockholders in organizing a board of directors, and the acts of said board of directors, be, and the same are hereby legalized.

CHAPTER LXIV.

An Act to revive and amend an act entitled, an act to incorporate the town of Perrysville in Vermillion County, approved, January 29, 1831.

[APPROVED, FEBRUARY 9, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled "an act to incorporate the town of Perrysville in Vermillion county, approved," January 29, 1831, be, and the same is hereby revived.

SEC. 2. That John McNeil, Asaph Hill, Milo Gookins, Matthew Black and Robert Moffatt be, and they are hereby appointed a board of trustees for the town of Perrysville, which board shall have and possess all the powers and discharge all the duties of the board of trustees, as provided in the act to which this is an amendment, and shall

hold their offices until the first Monday in December next, and until their successors are elected and qualified.

SEC. 3. The said board, or a majority of them, shall meet on or before the first Monday of July next, for the purpose of organizing as a board of trustees for the town of Perrysville; in which organization they shall be governed by the provisions of the first section of the act to which this is an amendment.

SEC. 4. The powers of the said corporation for the purpose of raising a revenue, shall be co-extensive with the present recorded plat of said town, and the additions that may hereafter be made, and to all lots and out lots not recorded as town lots, within the distance of thirty rods from and around the recorded plat of said town. And the said corporation shall have power to extend its jurisdiction for the purpose of removing nuisances, and to carry into full and complete effect its laws and ordinances, one half mile beyond the limits of the recorded plat of said town; and the qualified voters within the limits, subject to taxation, shall be eligible to the office of trustee in said corporation.

This act to be in force from and after its passage.

CHAPTER LXV.

An Act to incorporate the Shelbyville and Blue River Rail Road Company.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Sylvan B. Morris, William H. Cambell, Royal Mayhew, Samuel Walker, William W. McCoy, Benjamin Lockhart, and Joshua Lucas, of Shelby county, together with those who may hereafter become stockholders in the manner hereinafter prescribed, their successors and assigns be, and they are hereby created a body corporate, by the name and style of the "Shelbyville and Blue River Rail Road Company," and by that name and style shall be, and are hereby made capable in law to receive by gift, grant, donation, or bequest, land sufficient for depot purposes and the right of way, or to purchase the same, and to retain to them, their successors and assigns, all such lands, tenements, and hereditaments, as shall be requisite for the accommodation and convenience in the transaction of their business, and such as may be in good faith conveyed to them by way of security, or in satisfaction of debt, or by donation, or to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record and elsewhere, and also to make, have, and use a common seal, and the same to alter or change at pleasure.

SEC. 2. That the said corporation shall be, and are hereby vested with the right and authority to construct a single or double track rail

road from Shelbyville in Shelby county, to the Madison and Indianapolis rail road, at such place as the company may deem most to the interest of said corporation; and to use and enjoy the benefits and profits of the same in any and every manner usually and lawfully incident to rail roads: *Provided*, that the said corporation shall keep unobstructed a free passage on all public roads crossing said rail road.

SEC. 3. The capital stock of said company shall be three hundred thousand dollars, to be divided into shares of twenty-five dollars each, and the shares of the capital stock of said company shall be deemed personal property, transferrable by assignment agreeably to the by-laws of said company.

SEC. 4. The above named persons, or a majority of them, who may consent to act as such, shall be commissioners, who may authorize any three of their number to open books, for receiving subscriptions to the capital stock of said corporation, at such times and places as they may direct: and as soon as the stock shall be subscribed, or fifty thousand dollars thereof, a public notice shall be given of the time and place for a meeting of the stockholders to choose directors; when seven shall be elected by ballot, who shall be citizens of the state of Indiana, by such of the stockholders as shall attend for that purpose, either in person, or by lawful proxies; each share shall entitle the owner to one vote. The persons named in the first section of this act, or any three appointed by a majority of them, shall be inspectors of such election, and shall certify under their hands what persons are elected directors, and appoint the time and place of the first meeting of the directors, a majority of whom shall constitute a quorum, for the transaction of the business of the corporation. A new election of the directors shall be held annually, at such time and place as the stockholders at their first meeting shall appoint; but if no election shall be made on the day appointed, such election shall be held at any other time appointed by the by-laws of the corporation. And the directors chosen at any election shall, as soon thereafter as may be convenient, choose out of their number or otherwise as they may elect, one person to be president, and another to be treasurer of said corporation; and if any vacancy shall occur in said board, by death, resignation or otherwise, such vacancy shall be filled by the remaining directors, or a majority of them.

SEC. 5. There shall be paid upon every subscription at the time of subscribing, to the person or persons authorized to open said books, the sum of two dollars and fifty cents on each share subscribed; and the residue thereof shall be paid in such instalments, and at such times as may be required by the president and directors of said company, to the treasurer thereof: *Provided*, that no payment other than the first, shall be demanded, until at least thirty days' public notice of such demand shall have been given, in two or more prominent newspapers. And if any stockholder shall fail, or neglect to pay any instalment or part of said subscription thus demanded, for the space of thirty days next after the same shall be due and payable, the said president and directors, upon giving twenty days' notice thereof, in the manner afore-

said, may, and they are hereby authorized to sell at public sale, so many of the shares of such delinquent stockholder, as shall be necessary to pay such instalment, and the expenses of advertising and sale, and transfer of the shares so sold, to the purchaser, and the residue of the money arising from such sale after paying such instalment and expenses, shall be paid to such delinquent stockholder on demand.

SEC. 6. The said corporation are hereby authorized to cause such examinations and surveys to be made of the ground contemplated in the second section of this act as shall be necessary to determine the most eligible route whereon to construct said rail road; and it shall also be lawful for said corporation, by its members or its lawful agents to enter upon and take possession of all such lands and real estate as may be necessary for the construction and repairs of said rail road and the requisite erections, by reimbursing the owner thereof in a full and adequate sum therefor. And the president and directors of said company may agree with said owner or owners of any lands, earth, timber, gravel, stone, or other materials or any other articles whatsoever, which may be wanted in the construction or repair of said rail road or any of its works, for the purchase or occupation thereof, and in case of disagreement as to the value of any land or material that may be wanted for the construction of said road, the company shall have power to call to their aid some disinterested individual or individuals to compromise and settle all such disagreements, which when so settled shall be final and conclusive.

SEC. 7. Said corporation may construct their rail road across or upon any road or highways, or across any river, stream of water or water course, if the same shall be necessary; but in such case it shall be the duty of said corporation so to construct said road as conveniently to admit of the passage or transportation of persons or property, upon any such road, highway, river, stream or water course, and when it shall be necessary to pass through the land of any individual, it shall be their duty to provide such individual proper wagon ways across said rail road from one part of his land to another.

SEC. 8. The said corporation shall determine the width and dimensions of said rail road or any part thereof, not exceeding one hundred feet in width, and whether it shall be a double or single track, to regulate the form and manner of its construction, and the time and manner in which passengers and property shall be transported thereon, and the manner for collecting tolls for such transportation, and to erect and maintain buildings for the accommodation of the business of the corporation as they may deem advisable for their interests.

SEC. 9. Said corporation shall have power to purchase with the funds of the company, and place on the rail road constructed by them under this act, all machines, vehicles or carriages of any description whatsoever, which they may deem necessary or proper for the purposes of transportation on said road; and may demand and receive such tolls and freights, for the transportation of persons, commodities and

carriages on said road, or any part thereof, as shall be for the interest of the company; and the same to change, lower or raise at pleasure. And the said road, with all the works, improvements, profits, and all machinery for transporting are hereby vested in said company incorporated by this act, and their successors for the term of seventy-five years.

SEC. 10. At the regular annual meeting of the stockholders of said company, it shall be the duty of the president and directors in office for the previous year, to exhibit a clear and distinct statement of the affairs of the company, and the president and directors shall annually or semi-annually declare and make such dividend as they may deem proper, of the nett profits arising from the resources of said company, deducting the necessary current and probable contingent expenses, and they shall divide the same among the stockholders of said company in proportion to their respective shares.

SEC. 11. If it shall be necessary for the said rail road company, in the selection of the route or construction of the road by them to be laid out and constructed, or any part of it to connect the same with, or to use any road, street, or bridge made or erected by any company or persons, incorporated or authorized by any law of this state, it shall be lawful for the said president and directors, and they are hereby authorized to contract and agree with any such other corporation or persons for the right to use such road, street or bridge, or for the transfer of any of the corporate or other rights or privileges of such corporation or persons to the said company hereby incorporated, and every such other corporation and persons incorporated by, or acting under the laws of this state, are hereby authorized to make such an agreement, contract or transfer, by and through the agency of the persons authorized by their acts of incorporation to exercise the corporate powers, or by such persons as by any law of this state are entrusted with the direction and management of such road, street, or bridge, or any of the rights and privileges aforesaid; and every contract, agreement, or transfer, made in pursuance of the power and authority hereby granted, when executed by the several parties under their respective corporate seals, or otherwise legally authenticated, shall vest in the company hereby incorporated all such roads, or parts of roads, streets, bridges, rights and privileges, and the right to use and enjoy the same as fully, to all intents and purposes, as they now are or might be used and exercised by the said corporations or persons in whom they are now vested.

SEC. 12. The president and directors, or a majority of them, may appoint all such officers, engineers, or such other officers, as they may deem necessary for the transaction of the business of the company, and may remove any of them at pleasure; and they, or a majority of them, shall have power to determine by contract the compensation of all the engineers, officers, agents, or other persons in the employment of said company, and they or a majority of them shall have power to pass all by-laws which they may deem necessary or proper, and to exercise all

the powers vested in the company hereby incorporated necessary for carrying the objects of this act into effect.

SEC. 13. If any person or persons shall wilfully, by any means whatever, injure, impair or destroy, any part of the rail road constructed by said company under this act, or any of the works, building, material, or machinery of said company, such person or persons so offending, shall each of them, for every such offence, forfeit and pay to the said company a sum not exceeding three fold the damages, which may be recovered in the name of said company, by action of debt, in the circuit court of the county wherein the offence shall be committed; and shall also be subject to an indictment in the said court. And upon conviction of said offence, shall be punished by fine not exceeding the sum of one hundred dollars, and imprisonment in the jail of such county not more than thirty days.

SEC. 14. At the first meeting of the stockholders in accordance with the provisions of this act, they may, by vote, determine whether the said company will build a rail road or a turnpike; and if said company shall determine, by a vote of a majority of the stockholders, in favor of the building a turnpike road, then, and in that case, the said company shall have power to take all the necessary steps towards the erection of said turnpike; and all the powers and corporate authority vested in said company by this act, shall be and the same are hereby extended to said company, in the same manner as though said company had been incorporated for the special purpose of building a turnpike in the first instance; and shall have power to fix the rate of toll, erect toll-gates, and perform all other acts connected with the building of a M'Adamized road.

SEC. 15. If the corporation hereby created, shall not within five years from the passage of this act, commence and in fifteen years put in operation the said rail road or turnpike, then this act shall be null and void; *Provided*, That this charter may be amended, altered, or repealed, at any time by a vote of two-thirds of the Legislature.

CHAPTER LXVI.

An Act to amend an act, entitled, "an act to incorporate the Jeffersonville Savings Institution," approved February the 17th, 1838.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of the tenth section of the act to which this is an amendment as makes it necessary that the voting members of said institution shall always be kept at the number of one hundred, and so much of the

eleventh section of said act as reserves to the state the right to repeal said charter, be and the same is hereby repealed.

SEC. 2. That the capital stock of said institution shall consist of the permanent deposits, which shall be divided into shares not to exceed one hundred dollars each, and the voting members of said institution shall consist of the permanent depositors of stock therein, except in cases herein provided for.

SEC. 3. That the stock of said institution shall never exceed five hundred thousand dollars, nor shall it go into operation until the sum of two thousand dollars is bona fide deposited therein by its members.

SEC. 4. In the event of any member or members of said institution hereafter becoming owners of so much of the stock hereby incorporated, as to reduce the voting members below the number of eighteen, it shall be the duty of the board of directors to issue certificates of membership to weekly depositors for the time being, so that the voting members may always be kept at the number of eighteen.

SEC. 5. In all suits or complaints against said institution, the service of any writ or process upon the president or cashier thereof by the proper officer, shall be valid against said institution as a notice to answer such summons, writ, or other process.

SEC. 6. *Be it further enacted*, That all bills and notes at any time discounted by this institution, having the words 'without defalcation,' and payable at said institution, shall be put on the footing of foreign bills of exchange; and said institution may calculate and charge interest in advance on the same; *Provided*, That this institution shall not charge and receive in advance a greater rate of interest on money loaned on notes discounted, than any other institution of a similar character is authorized to charge and receive under its charter within this state.

SEC. 7. Should the said institution at any time fail or refuse to pay the moneys deposited with them, or shall commit any wilful violation of this charter, this act shall cease; and it shall be lawful for the circuit court of Clark county, upon bill or affidavit filed for that purpose, to issue a scire facias against said institution, or the President thereof; and if, upon full investigation, such refusal to pay, or other wilful violation shall be established to the satisfaction of the court, it shall be the duty of the judge thereof to appoint commissioners to take possession of said institution, and close its affairs under a decree of said court, and apply the effects, &c., of the corporation, to pay the demands against it *pro rata*, according to their several demands; *provided*, that each stockholder shall be liable in his individual capacity to the creditors of said institution, to the amount of his stock therein, at the time said debt was contracted; the effects of the corporation being first exhausted.

SEC. 8. That the voting members of the corporation shall meet annually on the first Monday in March in each year, at which time the president and directors shall lay before them a statement of the business and affairs of the said institution, and they shall choose seven directors from the voting members of the corporation, and the said di-

rectors so chosen, shall elect one of their own body president, and shall hold their offices for one year and until their successors shall be chosen; they shall have a right to fill any vacancy that may occur in their own body, by the election of some other voting member of the corporation, until the next annual election; and the corporation shall not be dissolved by the failure of any annual or other election, but an election may be held in such cases at any time the by-laws may prescribe, or members of the corporation may direct.

SEC. 9. Every stockholder in said institution owning one share of stock, shall be entitled to one vote in the election of directors; and every stockholder owning five shares and not exceeding ten, shall be entitled to two votes; those who own more than ten and not exceeding twenty, shall have three votes; those who own more than twenty, and not exceeding forty, shall have four votes; those who own more than forty, and not exceeding eighty, shall have five votes; more than eighty, and not exceeding one hundred and sixty, six votes; more than one hundred and sixty, and not exceeding three hundred and twenty, seven votes; more than three hundred and twenty, and not exceeding six hundred and forty, eight votes; and for all over six hundred and twenty shares, one vote: so that no member of said institution shall be entitled to more than nine votes; *Provided*, That any subsequent Legislature may alter, amend, or repeal this act, by a vote of two-thirds of each branch thereof. This act to take effect and be in force from and after its passage.

CHAPTER LXVII.

An Act amendatory of an act, entitled, "an act incorporating the Warsaw Manufacturing company," approved February 17, 1838.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS by an act passed by the last General Assembly, entitled, "an act incorporating the Warsaw Manufacturing Company," manifest injustice is done to individuals, by authorizing the said company to divert the outlet, or stream issuing from Eagle Lake, from its ordinary channel, thereby destroying valuable mill seats, the property of individuals; and whereas the said act reserves the right to the Legislature to repeal or amend the same. Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That so much of said act of incorporation as authorizes the company to turn any water course from its natural channel, to the injury of individual property, without the consent of such individual had and obtained, be and the same is hereby repealed; and so much of said act as authorizes justices of the peace to appoint juries of twelve persons to assess damages as provided in the seventeenth section of said act, is also hereby repealed. This act to take effect and be in force from and after its passage.

CHAPTER LXVIII.

An Act to amend an act entitled, "an act to amend an act, entitled, an act to incorporate the Michigan City," approved February 8, 1836.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fifty-third section of the act aforesaid, be and the same is hereby so amended as to make said section to read as follows:

SEC. 53. That nothing in this charter shall be so construed as to vest the corporation with powers in contravention to the constitution of this state, or of the United States.

This act to be in force from and after its publication in the Michigan City Gazette.

CHAPTER LXIX.

An Act to incorporate the town of Aurora.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the citizens of the town of Aurora, Dearborn county, and state of Indiana, are hereby declared to be a body corporate and politic, by the name and style of the "president and trustees of the town of Aurora;" they may, by that name have perpetual succession, sue and be sued, plead and be impleaded, defend and be defended against, in any court of law or equity, contract and be contracted with, purchase lands, tenements, hereditaments, goods and chattels, and hold them for the benefit of themselves and successors, or sell and convey them to others; have and use a common seal, and break and alter the same at pleasure; and make, and enforce all by-laws and ordinances necessary for the good government and welfare of the town; and excepting the right of electors therein to vote at elections, said corporation shall act through the present trustees and other officers hereinafter named.

SEC. 2. The limits of the corporation of said town, shall, for the purpose of taxation and police, extend to, and embrace the plat of said town of Aurora, including (the out lots with) with any addition or additions which have been, or may hereafter be made to the plat, as the same is or may hereafter be entered of record in the recorder's office of the county of Dearborn; and it shall be lawful for the president and trustees, to lay out such additional wards as they may deem necessary, such additional wards having at least seven legal county voters resident therein; the number of wards shall not exceed thirteen, nor be less than five, in each of which shall reside one trustee.

SEC. 3. On the first Monday in September, and annually, afterwards, there shall be an election held at some suitable place in said town, for the purpose of electing, by ballot, five or more trustees, as the wards may extend, for said town; at which election all white males of the age of twenty-one years and upwards, who shall have lived six months previously, in the bounds of the corporation, shall be allowed to vote: *Provided*, such person shall be a legal voter for the county aforesaid. And the trustees at their first meeting, which shall be as soon as practicable, after the election, and on the first Tuesday in each month afterwards, shall elect a president from their own body, whose duty it shall be to preside at all meetings of the board, and preserve order, put all questions, and upon an equal division of the board, give the casting vote.

SEC. 4. It shall be the duty of the trustees to cause a notice at least ten days, to be given of such election, either by publishing it in a newspaper, printed in said town, or by three written advertisements set up in three different public places in said town. It shall be the duty of the president, with one trustee, or in the unavoidable absence of the president, from sickness or death, or absence from the town, then one trustee in his stead, to act as judges of the election; [it shall be] the duty of the clerk to keep a correct list thereof and give written notice of their election, to the persons so elected; no person shall be eligible to the office of trustee, unless he is a qualified elector, or a freeholder of the town, and a resident of the ward for which he is elected. The trustees shall, unless they resign, remove to some other ward, or place, decease, or be removed, continue in office until their successors shall be chosen and qualified. If a vacancy shall occur in the office of trustee for any ward or wards, by death, resignation, removal, or otherwise, the remaining trustees shall appoint some person or persons to fill the same, until the next annual election: *provided*, that the remaining trustees shall form a quorum. They shall meet on their own adjournments, shall appoint all officers necessary to carry into effect the provisions of this act. They shall elect some suitable person, not one of their own body, who, being qualified, shall enter upon the duties of his office, as clerk to the president and trustees; he shall be the keeper of the seal, records, and files of the corporation, and a copy thereof, certified by him, under the seal of the town, shall be sufficiently authenticated to be admitted as evidence in any court of this state. The ballot shall be a paper ticket, which shall contain, written or printed, or partly written and partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which the person so named is intended by him to be chosen; but no ballot shall contain a greater number of names as designated to any office, than there are persons to be chosen to fill such office.

SEC. 5. The president and trustees shall, in the month of September, in each year, appoint a lister, who shall take an oath of office; he shall proceed forthwith to make a fair list, in alphabetical order, of all persons subject to a poll and other taxes, with a statement of their property, real and personal; together with a numerical list of the in-

lots and out lots with their assessed value to each, and specifying the same as improved or unimproved; and such lister shall, on or before the first day of October next succeeding, return to the clerk of the corporation, such list and assessment.

SEC. 6. The president and trustees shall appoint a collector, who shall take an oath of office, and give bond and security to be by them approved. It shall be the duty of the clerk to make out a duplicate of the lister's assessment, the same being a fair statement in alphabetical order, together with a list in numerical order, with assessment, and stating whether improved or unimproved, with the amount of tax due from each individual; and such list so put into the collector's hands, certified by the president, and attested by the clerk, shall be sufficient authority for the collector to collect the same. It shall be the duty of the collector to receive the amount of taxes due from each individual, on or before the first day in November in each year, and in all cases where the taxes assessed, are not paid by that time, by any individual, it shall be the duty of the collector, to proceed and collect the same by distress and sale of any of the personal property of such delinquent, by giving ten days notice of the time and place of such sale, by setting up three advertisements in three public places in said town.

SEC. 7. In all cases where the taxes due and owing cannot be made of the goods and chattels of such delinquent, it shall be the duty of the collector to make sale of the lots or fractions of lots, belonging to such person, or so much thereof as will pay the tax, and cost due, by giving three days notice of such sale in some newspaper published in the town or county aforesaid; in which notice he shall particularly describe the lot or lots so to be sold, by their proper number or by some other certain description, with the owner's name, if known, or the person's name to whom it is supposed to belong. The collector shall on the day of sale, by proclamation, proceed to sell the lot or lots to the highest bidder, or to the person who will pay the tax and cost due, for the smallest portion of the lot or lots; and shall give to such purchaser a certificate of such purchase, setting forth the quantity sold, its situation or locality, the amount paid, including tax and costs, and that such purchaser will be entitled to receive a deed for the same, at the end of two years, unless the owner shall redeem the same on or before that time, by paying to such purchaser, his heirs, or assigns, the amount of the purchase money, with fifty per centum per annum thereon, or deposit the amount with the clerk of the corporation.

SEC. 8. The collector may adjourn his sale of lots from day to day for three days; and if at the end of that time any lot or lots shall remain unsold for the want of purchasers, he shall make return thereof, and the amount of tax and costs on such lot or lots shall remain a lien on the same, and shall be added to the next year's assessment, with one hundred per cent. thereon. The collector shall be allowed a fee of fifty cents for each sale and certificate including printing.

SEC. 9. It shall be the duty of the collector to make return of his proceedings and the sales made, to the clerk of the corporation on or

before the first day of November, annually, and immediately pay over to the treasurer all moneys by him collected, at which time he shall furnish a list of delinquents, for which he shall receive a credit, if deemed correct.

SEC. 10. The president and trustees shall at all times have full power to refund any moneys wrongfully collected as taxes; and to correct any assessment on tax list, by adding thereto or subtracting therefrom, as to them shall seem right.

SEC. 11. The treasurer shall give bond and security for the rendering a faithful account of all moneys entrusted to his care and for the faithful payment of the same over to the board of trustees, when required by them or to their order.

SEC. 12. All bonds given by the officers of the corporation, and all contracts entered into with the corporation shall be in the name of "the president and trustees of the town of Aurora;" and all suits commenced for the benefit of the corporation, or when the corporation shall be defended shall be in the name of the president and trustees of the town of Aurora, without setting forth the name of any member thereof.

SEC. 13. The president and trustees shall have power to charge and levy on all steam boats, barges, keels, flats, or other craft, port-dues or wharfage on landing, the same being moored or anchored and holding communication with the shore; they shall also have power to regulate wharfage, and collect the same; construct wharves, piers, docks, harbors, and other improvements along the shore and in the channel of the Ohio river in and adjoining said town, or on and in Hogan creek; to make, repair, graduate and pave all such streets, squares or alleys as they shall deem necessary; to prescribe the situation, width and direction of all streets, squares, alleys and side-walks in any proposed addition to the town; to regulate, and if they see proper to prevent the interment of deceased persons within the town; to do all things necessary to prevent the introduction of infectious diseases, and preserve the health of the town; and for this purpose their jurisdiction shall extend one half mile beyond its limits; and they may if they deem it necessary, appoint a board of health, which shall have as ample powers for the preservation of the public health as the president and trustees have; to procure fire engines and hose and other apparatus; organize fire companies, require the citizens to provide themselves with fire buckets; regulate or prevent the erection of wooden buildings in such part of the town as ought not to be endangered thereby; and take all other usual and proper measures for preventing or extinguishing fires; to regulate the sweeping of chimneys, the storage of gunpowder, or other dangerous and combustible materials; to sink wells and cisterns, and provide for supplying the town with good and wholesome water; to suppress gaming houses and houses of ill fame. They shall also have the power to alter the names of the streets of the present plat of said town.

SEC. 14. It shall not be lawful for any person or persons within the bounds of the corporation to sell by less quantity than one quart any

wines or spirituous liquors, foreign or domestic, or keep what is commonly called a tipling house, grocery, or coffee house, unless such person or persons shall, in addition to a license obtained from the board of county commissioners, obtain a license from the corporation, who is hereby authorized to grant the same to such applicant for one year, on his, her, or their paying into the treasury of the corporation, a sum not exceeding fifty nor less than five dollars, at the discretion of the corporation. And if any person or persons shall sell any wines or spirituous liquors, or keep what is commonly called a tipling house, grocery or coffee house, contrary to the provisions of this act, he, she, or they, so offending, shall upon conviction thereof, by presentment, indictment, or otherwise, before any court having competent jurisdiction, be fined in any sum not exceeding one hundred nor less than ten dollars, for the use of the corporation. And for the better regulation of the peace and good government of the town, the said president and trustees are hereby authorized to pass and adopt laws or ordinances for the suppression of immorality, intoxication, rioting, or whatever may detract from the peace and good order of society, and for the purpose of carrying into effect the provisions of this act, the corporation is hereby authorized to appoint a marshal for that purpose, who shall take an oath of office and shall be a peace officer: *Provided*, such by-laws and ordinances are not contrary to the constitution and laws of this state.

SEC. 15. The times herein stated before, when elections shall be holden, and certain other acts shall be done are directory only, except the time of selling lands for the taxes, and no elections or act shall be void because the same was holden or done on any particular day, if the notice herein required shall have been given. All by-laws and ordinances of a public nature, made by the president and trustees, shall be in force as soon as a copy thereof, certified by the clerk under the seal of the corporation, shall have been published for ten days in a newspaper of the town, or posted in three different public places for such length of time; and if the electors shall fail to meet, the corporation shall not thereby be dissolved, but the president and trustees then in office shall continue until their successors are elected.

SEC. 16. No person shall be incompetent to be a witness in suits for the violation of any by-law or ordinance of the president or trustees because such person is a citizen of the town.

SEC. 17. For the better regulation and good government of said town, the president and trustees may pass such by-laws and ordinances regulating their own conduct and imposing such fines upon members for a breach of any of their rules or regulations as they may conceive conducive to public good; and a majority of the trustees may expel a member for improper or disorderly conduct.

SEC. 18. The president and trustees shall have power to establish and regulate a market or markets in said town; and to restrain and regulate the sale of fresh meat and vegetables; to restrain and punish the forestalling of poultry, fruits, eggs, butter; to inspect weights and measures; to license under the hand of the president, attested by

the clerk and seal, such and so many butchers as they may deem necessary; and to rent out any stall or stalls in said market, and receive such tollage or dues as they shall direct; and it shall be the duty of the marshal to receive such dues at the time, and deposit the same forthwith with the treasurer, whose receipt in the marshal's book for the same shall be a voucher: *Provided*, that the renters of stalls shall pay their rent quarterly or otherwise in advance, which payment shall be receipted by the treasurer on the back or margin of the license. They shall also have the power to make, publish, ordain, amend and repeal all such ordinances, by-laws and police regulations not contrary to the constitution and laws of this state, for the good government and order of said town, and enforce observance of all rules, ordinances, and police regulations made in pursuance of this act; they shall have power to prescribe from time to time the duties of all officers and persons appointed by them to any office or place whatever, and may remove all officers and persons at pleasure.

SEC. 19. The president and trustees shall as soon as practicable, have made out a fair and correct copy of the plat of the town, with the outlots and all additions which from time to time may be made, the same in a scale of not less than three hundred and thirty feet to one inch, and which shall be placed in the care of the clerk as part of the records of said town.

SEC. 20. The president and trustees shall have power to levy and collect a tax on real property, not to exceed one half per cent. on its valuation, including improvement or improvements, or any specific article or articles of personal property, a poll tax on each qualified voter not exceeding fifty cents; on all shows, exhibitions or amusements not less than two dollars.

SEC. 21. The president and trustees may prevent the erecting and direct the removal of public nuisances; may declare what shall be a nuisance; and enforce by proper penalties the observance of all by-laws and ordinances relative to the police and government of said incorporated town; boats in Hogan creek or in the Ohio river which from their containing stagnant water, or any other cause shall become in the opinion of the trustees of said corporation or in the opinion of the board of health instituted by said corporation prejudicial to the health of the inhabitants thereof shall be deemed a public nuisance; and the marshal shall be directed to publish three notices in three public places to the owner or owners thereof, to move the same, and if the same be not done within the time fixed by the trustees, then the marshal shall move the same at the expense of the owner or owners thereof.

SEC. 22. It shall be the duty of the president to sign all laws, ordinances and decrees of a public nature.

SEC. 23. Whenever the owners of any lots on any streets or section of a street shall be desirous of making any improvement on the same by grading, gravelling, or paving said street or side walks, thereof, or any other improvement on said street or side walks, two-thirds of the owners of lots on said street or section of street, by themselves, their

agents representing two-thirds of the whole number of feet on each side of said street or section of street, two-thirds of the whole number of feet on one side of any side walk, and shall by petition represent to the president and trustees of said corporation, plainly and distinctly the improvement wanted or contemplated to be made, it shall be the duty of the president and trustees to cause the same to be done in the best and most economical manner, agreeably to the wish of said petitioners; and the expense of said improvement shall be assessed and levied on all the lots independent of improvements thereon, fronting on said street or section of street, equal per foot for the distance such improvement may be intended to extend; which assessment and levy from the time of making the same, shall be and remain a lien upon said lot or lots, until the amount so assessed and levied shall be fully paid and discharged. It shall be the duty of the clerk of the corporation to enter such petition on record, with the petitioners' names, the number of feet front owned or represented by each, and shall make out and deliver to the collector of the corporation a list of the owners' names, the number of feet front owned by each individual, the rate of expenses on each lot for such improvement, and the whole amount assessed and levied on each lot or fraction of lot; which list, signed by the president and certified by the clerk, shall be sufficient authority for the collector to proceed and collect the same; and if the owner or occupant of any lot or part of a lot shall neglect or refuse to pay the amount so assessed and levied, within three months after such levy, the collector shall proceed to collect the same by sale of such lot or part of a lot, or so much thereof as will pay the amount so levied; and in such sale and conveyance to the purchaser thereof, he shall in all respects be governed by the seventh, eighth and ninth sections of this act, and the right of redemption shall be the same as is provided by the seventh section of this act. And if any such lot or fraction of lot shall not sell for want of buyers, or any other legal cause, the same may be re-offered by such collector from time to time until the same shall be sold, adding the costs that may accrue at each time for advertising, &c. and the collector shall be entitled, in addition to the cost of advertising, to the same fee for such sale as he is allowed in the eighth section of this act for making sale and certificate; and for making a deed to any real estate sold under the provisions of this act, the collector making the same, shall be allowed one dollar and twenty-five cents for having the same acknowledged, to be paid by the person receiving said deed.

SEC. 24. The proceedings and official acts of the present board of trustees and all former boards of trustees, not inconsistent with the constitution and laws of this state, or of the United States, are hereby legalized.

This act to take effect and be in force from and after its passage. And the legislature shall have power to alter, amend or repeal this charter at any time by a vote of two-thirds in favor thereof.

CHAPTER LXX.

An Act to incorporate the Bedford Presbyterian Church.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Philip J. Kerd, William Crawford, Elias Albertson, John W. Lynn, and Hosea Otis, and their successors in office are hereby constituted a body politic and corporate, and shall be known by the name and style of the trustees of the Bedford Presbyterian church, and by said corporate name may sue and be sued, plead and be impleaded in any court of legal proceeding in this state, and by that name have perpetual succession, and they shall in law by said name be capable of purchasing, holding, bargaining, and selling any property, either real or personal for the use of said church whether by legal or equitable title not to exceed in value twenty thousand dollars.

SEC. 2. They shall further be empowered to receive all and singular any subscriptions, gifts, grants, donations and bequests which shall solely be applied to the use and benefits of such church in the manner such trustees shall deem most proper and expedient.

SEC. 3. It shall be lawful for such trustees to hold meetings at such place and at such times and as often as it may suit them or as their business may require it, set on their own adjournments, on the call of the proper officer or any one of their body and to elect or appoint such officers and establish such rules or by-laws for their government, as they or a majority of them may see fit: *Provided, however,* that such rules or by-laws shall not be incompatible with the constitution of this state or of the United States.

SEC. 4. It shall be lawful for the members of the Bedford Presbyterian church to perpetuate this board of trustees by annual appointment or in any way they may deem proper, and also to fill all vacancies which may in any way occur. They shall also keep a record of the proceedings, which shall be open to the inspection of all persons concerned.

SEC. 5. The acts and doings of the former board of trustees of the Bedford Presbyterian church are hereby declared valid in law, the same as though they had been done under the provisions of this act. And the legislature hereby reserves the right to alter, amend, or repeal this charter at any future session.

This act to take effect and be in force from and after its passage.

CHAPTER LXXI.

An Act to amend an act entitled, an act to incorporate the Baileytown and Chicago Turnpike company, approved Feb. 15, 1838.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled an act to incorporate the Baileytown and Chicago turnpike company, approved February 15, 1838, be, and the same is hereby amended as follows:

SEC. 2. That as soon as said company shall have built a good, safe and substantial bridge, across the Calumet river and have causewayed the marsh on each side of the said river from the banks of said stream to such points above high water mark as may be necessary in such manner as provided for by the act to which this is an amendment.

SEC. 3. That upon the completion of the before mentioned work, any member of the said company may call upon the sheriffs of the counties of Porter and Lake, and it shall be the duty of the sheriffs to proceed to, and examine the bridge and causeway aforesaid at such time as they may find convenient, and shall after such examination, if they decide that the aforesaid work is done in a workmanlike manner, being safe and adapted to the convenience of travel, give a certificate to that effect to the said corporation, or any member thereof, and said examiners shall each be entitled to an allowance of three dollars per day for all time necessarily employed in going to, making, and returning home from said examination, the said compensation to be paid by said company or corporation.

SEC. 4. Upon and after the receipt of the certificate aforesaid, the said corporation may erect a toll gate upon or near the said bridge, and may charge the following tolls, viz: Wagon drawn by four horses, twenty-five cents; wagon drawn by three horses, twenty-five cents; wagon drawn by two horses, eighteen and three-fourth cents; wagon drawn by one horse, twelve and a half cents; man and horse, six and a fourth cents; ox teams same as horse teams; single horses or oxen, each three cents; other cattle and colts, each one cent; sheep and hogs, each one half cent; United States mail, with driver, to pass free.

SEC. 5. This act to be in force from and after an acceptance of the same by the said company or corporation, being filed with the recorder of Lake county and its publication in any paper in this state.

This act shall be subject to be repealed by a vote of two-thirds of any subsequent legislature.

CHAPTER LXXII.

An Act to incorporate the Vevay Steam Mill and Manufacturing Company.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of building and managing a steam mill for grinding grain, sawing timber, and driving such other machinery as may be attached to said mill for manufacturing purposes, and carrying on the business incident thereto in or near the town of Vevay, in the county of Switzerland, Joseph C. Eggleston, Edward Patton, Philip Schinck, Abner Clarkson, Perret Dufour, Francis G. Sheets, William Shaw, John F. Dufour, Elisha Golary, and their associates, be and they are hereby constituted a body corporate and politic, by the name and style of the Vevay steam mill and manufacturing company, and by such name and style shall have full and complete power to sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto in any court having competent jurisdiction.

SEC. 2. The process against said corporation shall be by summons, which being executed on the president or any director thereof hereinafter mentioned, the further proceedings shall be the same as against natural persons.

SEC. 3. The said corporation may have and use a common seal, and the same may be altered and changed at pleasure, and shall be capable of purchasing, holding, using and conveying, any property or estate either real or personal, that may by them be deemed necessary in prosecuting the business aforesaid.

SEC. 4. The capital stock of said corporation shall be fifty thousand dollars, and shall be divided into shares of twenty five dollars each; but it shall be lawful for said corporation to commence business when and so soon as three thousand and five hundred dollars shall have been subscribed for; and with that capital to conduct and carry on the same until they shall find it expedient to extend their capital, which they are authorized to do from time to time to the amount herein before mentioned.

SEC. 5. The subscriptions to said stock shall be opened under the direction of William Shaw, Francis G. Sheets and Perret Dufour, or any two of them, who are hereby appointed commissioners for that purpose, and are authorized to receive subscriptions to said capital stock on such days and at such places after the passage of this act at Vevay, or in said county, as they shall appoint; and the sum of two dollars and fifty cents on each share shall be paid unto the commissioners previous to the election for directors.

SEC. 6. The stock, property, and concerns, shall be conducted by five directors, who shall be stockholders in said corporation, one of whom to be president, who may respectively hold their offices one year, and until their successors are elected and qualified; *Provided,*

That the directors first elected shall hold their offices until the first Monday of September succeeding their election, and until others are elected and qualified in their stead.

SEC. 7. So soon as the sum of three thousand five hundred dollars shall have been subscribed, and the sum of two dollars and fifty cents shall have been paid in on each share, pursuant to the requisitions of this act, the commissioners appointed by the fifth section of this act shall give notice by written advertisements posted up in five public places in said county, or by publishing the same in some public newspaper printed in said county, for an election of directors on such day and at such place in the town of Vevay, as said commissioners, or a majority of them may designate; which notice shall be given at least ten days prior to such election.

SEC. 8. The directors of said corporation shall be chosen annually on the first Monday in September in each year, at such place in the town of Vevay as a majority of the directors for the time being may prescribe, of which election notice shall be given at least ten days, by written advertisements, posted up in five public places in said county of Switzerland, or by publication in some public newspaper printed in said county.

SEC. 9. The first election herein contemplated shall be held under the direction and inspection of the commissioners before mentioned, and all subsequent elections, under the inspection of the directors for the time being.

SEC. 10. All elections shall be by ballot, and a majority of all votes present, allowing one vote for each share, shall be necessary to a choice.

SEC. 11. The directors chosen under the provisions of this act, as soon as may be after their election, shall proceed to elect one of their number president; and if any vacancy shall at any time happen among the directors by death or otherwise, such vacancy shall be filled for the remainder of the term by the directors then in office.

SEC. 12. In case it shall happen at any time, that an election of directors shall not be made, the said corporation shall not for that cause be deemed to be dissolved; but it shall be lawful on any other day, to hold an election for directors, in such manner as shall be regulated by the laws and ordinances of said corporation.

SEC. 13. A majority of the board of directors for the time being shall form a quorum for the transaction of all business of said corporation, and shall have power to prescribe and make such by-laws and regulations, not repugnant to the laws and constitution of the United States or of this state, as shall seem to them needful and proper, touching the management and disposition of property, estate, and effects of the said corporation, the duty and conduct of the officers and men employed therein, the election of directors and all such matters as appertain to the concerns of said institution, and shall have power to employ as many persons as shall be necessary for carrying on the business of said corporation.

SEC. 14. The stock of said corporation shall be assignable and transferrable, according to such rules and regulations as the board of directors may make and establish, and shall be considered as personal property: *Provided*, that no transfer of stock shall be valid or effectual until the same shall have been registered in a book to be kept for that purpose by the president, which shall at all reasonable hours of transacting business, be open to the examination of any stockholder, or any person having any demands against such corporation, and in case any officer of the company having charge of such book, shall refuse to let the same be examined as aforesaid, he shall for every such offence forfeit the sum of fifty dollars;—one moiety to the Switzerland county seminary, and the other moiety to the person who shall sue for the same, by action of debt in any court in said county of competent jurisdiction, together with costs of suit.

SEC. 15. The directors shall at all times keep or cause to be kept, at some proper place, proper books of accounts, in which shall be entered all the transactions of said corporation; which books shall, at all times be subject to inspection of the stockholders of said company.

SEC. 16. The said corporation shall not contract debts so as be liable at any one time to a greater amount than the capital stock of the same, and each stockholder shall be liable for debts contracted by said corporation during the time he was or is a stockholder, on a failure of sufficient of property belonging to said company.

SEC. 17. The directors shall have full power to receive and by due course of law to collect all subscriptions in writing, for the purpose of raising the funds necessary to carry into effect the objects of said corporation; and shall be entitled to recover ten per centum damages on any instalment of stock which shall not be paid pursuant to the requisitions of the board after ten days notice to the subscriber after the same is due.

SEC. 18. The said corporation hereby created, shall not engage in any banking business whatever.

SEC. 19. This charter shall be and the same is hereby limited to the term of fifty years from and after the first day of March, eighteen hundred and thirty-nine.

SEC. 20. This act shall be and the same is hereby declared to be a public act; shall be liberally construed for all beneficial purposes, and shall be in force and take effect from and after its passage; and shall be subject to amendment or repeal at any time by a vote of two-thirds of the legislature: *Provided, however*, if the same be repealed, said company shall have three years thereafter to wind up its business.

CHAPTER LXXIII.

An Act to amend the act relative to the town of Evansville.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the bounds of the town of Evansville as incorporated by law, and the jurisdiction, powers, and duties of the president and trustees and corporate officers thereof, shall henceforth extend over, and include all the land between the northern side of Water street in said town, and low water mark in the Ohio river in front of said town.

SEC. 2. That the president and trustees of said town, may, from time to time, by ordinance, prescribe the number of trustees to be elected in each of the several wards of said town, any law to the contrary notwithstanding.

SEC. 3. That so much of any act relative to the said town as may recognize the validity of the plat of the original plan of Evansville, as it now appears of record in the recorder's office of Warrick county, be and the same is hereby repealed: *Provided, nevertheless*, that all that part of Evansville, which is included in the plat of the original plan of Evansville, shall continue to be a part of said corporation. This act to be in force from and after its publication in the Evansville Journal.

CHAPTER LXXIV.

An Act to amend an act entitled, an act to incorporate the Crawfordsville and Williamsport turnpike company.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the title of said corporation shall hereafter be the "Williamsport road company."

SEC. 2. That all the privileges and immunities granted by an act entitled, an act to incorporate the Williamsport, Warren county bridge company, approved, February 2, 1837, be and they are hereby invested in the Williamsport road company.

SEC. 3. That said corporation shall have three years to commence, and eight years to complete said bridge ensuing the date hereof.

SEC. 4. The directors shall have power to appoint all officers necessary for carrying fully into effect the provisions of this act; and the directors named in this act and the act incorporating the Williamsport bridge company as is now connected, shall cause books to be opened for subscription to the capital stock at such times and places as will

comport with the interest of said company; and shall give due notice of the same in any way to make it most public.

SEC. 5. That the board of directors shall hold their office for one year after the complete organization of said company, and until their successors are elected and qualified into office; and at the expiration of the term of service, the stockholders or a majority of them shall meet at the usual places of holding their meetings, and shall proceed to the election of the board, who shall, when elected, possess all the powers and jurisdiction, that does or may properly belong to their predecessors; and annually thereafter shall elect the directors, as is provided in this section.

SEC. 6. That so much of the act to which this is an amendment, as comes within the provisions of this act, be, and the same is hereby repealed. This act to take effect and be in force from and after its passage, and the same is hereby declared a public act.

CHAPTER LXXV.

An Act to amend an act, to incorporate the town of Vevay, approved, January 30, 1836.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the appointment of lister as provided for in the tenth section of the act to which this is an amendment, shall hereafter be made on or before the first Monday in March, annually, and that such lister shall make his returns, on or before the first Monday in May next succeeding his appointment, and that the time to levy taxes on property listed and returned by the lister, and to appoint a collector be, and the same is hereby changed from the month of July, to the month of May in each year; also that the time, after which the collector shall proceed to enforce the collection of the taxes, as provided for in the aforesaid act, be, and the same is hereby changed from the first day of November to the first day of September in each year.

SEC. 2. That the time of holding the annual election for trustees of said town, in the year 1840, and every year thereafter be, and the same is hereby changed from the first Monday in June, to the first Monday in January, and that the trustees to be elected in the present year, shall be elected to serve seven months; and until their successors be elected.

SEC. 3. That the trustees of said town shall have power to extend the sum of money to be paid into the treasury of the corporation by any retailer of spirituous liquors, in order to obtain the license contemplated by the 19th section of the aforesaid act, to any amount, not exceeding twenty-five dollars for each license.

SEC. 4. That the highways, streets, and alleys within said town shall not be within the jurisdiction of any supervisor or supervisors elected or appointed by the county or township authorities, and said town shall not be taken, deemed or considered a part of any road district or districts now existing, or which may hereafter be formed in the county of Switzerland. This act to take effect and be in force from and after its publication in the Vevay Times, a newspaper printed in the said town of Vevay.

CHAPTER LXXVI.

An Act to incorporate the Orange Blues.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Thomas V. Thornton, Alfred Davis, and John T. Throop, and their associates, and successors be, and they are hereby constituted and declared to be a body corporate and politic, by the name and style of the "Orange Blues," and by that name shall have perpetual succession, with full power to contract and be contracted with, to sue and be sued, plead and be impleaded, in any court of law or equity, to make and use a common seal, and the same to alter at pleasure; to elect their own officers, to make, ordain, establish and enforce such by-laws, rules, and ordinances not inconsistent with the laws and constitution of the United States, and of this state, as they shall deem necessary for the welfare and better government of said company.

SEC. 2. Said company shall be subject to the civil laws and ready whenever called on by the same to turn out for the purpose of aiding in suppressing all riots and insurrections which may happen within the county of Orange and elsewhere.

SEC. 3. Said company shall have power to assess and collect such fines for non-attendance on parade at any muster of said company, for deficiencies in equipment; for all contempt or disobedience of orders or unsoldierlike conduct on parade, as may be established and fixed by the by-laws of said company; and shall also have power, by a vote of a majority of the company present to expel any member for any of the causes aforesaid, or for any other cause which may be deemed sufficient to justify an expulsion.

SEC. 4. All violations of the rules and regulations and by-laws of the company, or other delinquencies or misconduct shall be noted by the proper officer, and reported to a board of assessment, to be constituted of the commissioned officers of said company; who, or a majority of whom, shall meet annually, on the third Monday in November.

ber, at the town of Paoli, and receive such report, and assess such fine or fines as may be authorized by the by-laws of said company; the highest senior officer present, acting as president of the board. The said board shall also have power to appoint a secretary, whose duty it shall be to record the proceedings of said board, and to make out and certify a fair list of the persons fined at such court, together with the cause and amount of fine, and post up such list on the court house door in said town, within ten days next after the adjournment of said board; said board shall also have power to hear and consider all such excuses or defence which may be offered by any delinquent, and hear the testimony of witnesses, and administer all oaths necessary to be administered in the progress of such examination.

SEC. 5. After the list aforesaid, shall have been posted up ten days aforesaid, any person charged therein, with a fine, having failed or refused to call upon the treasurer of said company, and pay and discharge such fine by voluntary payment, it shall thereupon be the duty of the treasurer of said company to institute an action of debt in the corporate name of said company before any court of competent jurisdiction, against each person so fined as aforesaid, and proceed to collect the same as in other cases, in which action or actions, the list aforesaid, or a certified copy thereof, shall be *prima facie* evidence in support of such action.

SEC. 6. All fines so assessed and collected as aforesaid, shall be appropriated for the exclusive benefit of said company, and shall be laid out and expended pursuant to the by-laws of said company.

SEC. 7. No person who shall be involved in said company, shall be excused from performing duty therein, unless released by the company, or unless he shall have served five years as a member therein; after which service such person shall be exempt from militia duty in this state; except in case of insurrection or invasion.

SEC. 8. That any person subject to military duty in the county of Orange shall be permitted to become a member of said company, any law to the contrary notwithstanding.

SEC. 9. That said company shall be subordinate to the militia laws of this state, and shall perform duty as required therein, and may also provide in the by-laws of said company, for such number of extra trainings as may be deemed necessary, to be held on such days and at such places as may be fixed and appointed.

SEC. 10. This act to take effect and be in force from and after its publication in the Indiana Democrat.

CHAPTER LXXVII.

An Act to legalize the incorporation of the town of Lebanon, in the county of Boone.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the meeting of the citizens of the town of Lebanon, in the county of Boone, subsequent to the first Monday of May, 1838, to incorporate the said town of Lebanon, under the act approved, February 17, 1838, be, and their proceedings are hereby legalized.

CHAPTER LXXVIII.

An Act to incorporate the Tippecanoe and Monticello Bridge Companies.

[APPROVED FEBRUARY, 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all persons who shall become stockholders pursuant to this act, shall be and they are hereby constituted a body corporate, by the name and style of the Tippecanoe Bridge Company, and by that name shall be capable of holding real estate sufficient for carrying into effect the purpose of this act, and of suing and being sued, defending and being defended, in law and equity, in all courts whatsoever, and shall have authority to ordain and establish such by-laws, rules and regulations not repugnant to the constitution of this state or of the United States, or the laws thereof, as shall from time to time be found necessary for the management and good government of said corporation.

SEC. 2. That Anthony Shuetz, John Hourback and Barny Davis, of Carroll county, and William Harden, Robert Newell, George A. Spencer and James Shaffer, of White [county] shall be commissioners to open books for receiving subscriptions to the capital stock of said corporation, and the said books shall be opened on or before the first Monday of July, 1839; and each of said commissioners may receive subscriptions to said corporation.

SEC. 3. The capital stock of said corporation shall be five thousand dollars, or so much thereof as is necessary to carry into effect the object of this act of incorporation. Said capital stock shall be divided [into shares] of five dollars each.

SEC. 4. Whenever two hundred shares of said corporation stock shall be subscribed, the commissioners shall cause an advertisement to be set up in three public places in Carroll and White counties, giving at least three weeks' notice of the time and place of the meeting of the stockholders to choose directors; and, at the time and place appointed

the stockholders of said company, or a majority, shall choose seven directors, they being stockholders, a majority of whom shall be competent to transact business. A new election of directors shall be held annually thereafter, on the last Saturday of September, or as soon thereafter as a majority of the stockholders at a previous meeting shall designate: the directors thus chosen at any election shall, as soon thereafter as may be, choose one person to be president, who shall appoint a secretary and Treasurer.

SEC. 3. The directors may demand from the stockholders respectively all such sums of money by them subscribed at such time and in such manner as they may think proper, and in penalty of forfeiting their respective shares, and all previous payments.

SEC. 6. That the said corporation may erect a toll bridge across the Tippecanoe river, where the state road leading from White county to Delphi, by the way of Sheets' mill, crosses said river; and the corporation shall and may use the writ of *ad quod damnum*, and all the benefits arising from the law allowing such writ for the purpose of having condemned the necessary quantity of ground for the erection of the abutments, toll house and necessary causeway.

SEC. 7. Whenever said bridge shall be completed, the said corporation may erect a toll gate at either end of said bridge and demand and receive a toll not exceeding the following rates, to wit: for every four-wheeled carriage drawn by two horses or oxen, twenty-five cents; for each additional horse or ox, six and a fourth cents; every two-wheeled pleasure carriage twenty-five cents; for every wagon, sleigh or cart drawn by one horse or ox, eighteen and three-fourth cents; and for every additional horse or ox, six and a fourth cents; for each man and horse, twelve and a half cents; for each horse, mule, or work ox, six and a fourth cents; for each head of neat cattle, three cents; for each head of sheep or hogs, one cent; for each foot passenger, six and a fourth cents; and in analogous proportion of the foregoing rates, for any other carriage or animal. But all persons going to or returning from places of religious worship, going to or returning from muster when on military duty, and all funeral processions shall be exempt from paying toll.

SEC. 8. If any person or persons shall wilfully impair or injure said bridge, he, she or they, so offending, shall forfeit and pay to [the] corporation, the sum of ten dollars to be recovered with costs of suit, and shall also be liable to pay said corporation treble the amount of damages sustained with costs of suit, to be recovered in an action of trespass in any court of competent jurisdiction.

SEC. 9. If any person shall forcibly pass the gate without having paid the legal toll, except persons going for a physician, he shall forfeit and pay to said corporation, eight times the amount of legal toll, to be recovered by an action of debt before a justice of the peace.

SEC. 10. If any toll-gatherer shall unreasonably delay or hinder any passenger at the gate, or shall receive or demand more than the legal toll, he shall for every such offence, on conviction, forfeit and pay the sum of five dollars, to be recovered before a justice of the peace, to the use of the person so unreasonably detained, delayed or defrauded.

SEC. 11. If said bridge shall not be constructed in ten years from the passage of this act, then, in that case, this act shall be made null and void, otherwise to remain in full force and virtue for fifty years.

SEC. 12. In case the corporation shall deem the present amount of capital insufficient for the purpose herein named, the said corporation is hereby authorized to extend said capital stock of said corporation to any amount not exceeding double the amount of its present capital.

SEC. 13. The said corporation shall not at any time, nor in any manner, obstruct the navigation of the Tippecanoe river by the construction of said bridge.

SEC. 14. The mode of electing directors shall be by ballot, each stockholder being entitled to vote one vote for every share of stock that he may own. The election to be conducted as corporation elections are usually conducted.

SEC. 15. That Samuel Rifenberick, Zebulon Sheets, Isaac Reynolds, Peter Price and William Sill of White county, are hereby granted the same privileges and act of incorporation, as the aforesaid persons are in erecting the Tippecanoe bridge, for the purpose of erecting a bridge across the Tippecanoe river at Monticello, where the state road from Monticello to Logansport crosses the river. And said corporation shall be known by the name of "The Monticello Bridge Company," and the county commissioners are hereby authorized to subscribe stock in the name of the county, if they should deem it expedient, to be paid out of the three per cent. fund, or any other they may see cause to pay it out of.

This act to be in force from and after its passage: *Provided, however,* that the legislature may, at any time, alter, amend, or repeal this charter, by a vote of two-thirds of all the members.

CHAPTER LXXIX.

An Act to amend an act, entitled, "an act to incorporate the Lafayette and Danville Rail Road Company," approved February 5, 1836.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the time for the commencement of said rail road is hereby extended to five years from the passage of this act, and that the time for the completion of said rail road is hereby extended to fifteen years from the passage of the act to which this is an amendment; *Provided,* That when one hundred thousand dollars of the capital stock authorized by the fourth section of the act to which this is amendatory, shall be subscribed for, the said company may commence the construction of the said road therein mentioned. This act shall be in force from and after its passage.

CHAPTER LXXX.

An Act appointing and authorizing Isaac Coleman as a commissioner to make deeds on behalf of George Hollingsworth's heirs, to the purchasers of certain lots in the town of Attica.

[APPROVED, JANUARY 23, 1839.]

WHEREAS, George Hollingsworth, late of the county of Fountain, in this state, did during his life time, sell to sundry persons lots in the town of Attica, in the county of Fountain, in the state aforesaid, and executed to such persons bonds for the conveyance of said lots, the price of which has been fully paid either to him in his life time, or to his legal representatives since his death, and he having departed this life without having executed deeds therefor to the said purchasers, leaving minor heirs; for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Isaac Coleman be and he is hereby appointed a commissioner, with full power and authority on behalf of the legal heirs and representatives of said George Hollingsworth, to execute deeds of conveyance to the several purchasers of lots in the said town of Attica, in the manner and upon the terms hereinafter prescribed.

SEC. 2. The said Isaac Coleman, so soon as he shall be informed of his appointment, shall give public notice thereof, by advertisement in the Covington Whig.

SEC. 3. That before the said commissioner shall be authorized to make a deed of conveyance to any such purchaser, the latter shall produce to such commissioner the bond he holds upon said decedent for a conveyance, accompanied by the affidavit of such purchaser, his assignee, or the holder of such bond, setting forth that the consideration money or price of such lot, stating the amount thereof has been fully paid to the said decedent in his life time, and the deed demanded of him, together with the time, place, and manner of such payment, or that the same has been so paid to his legal representatives, since his death, (referring to and producing the necessary vouchers of payment from such legal representatives;) which affidavit shall be made and signed by such affiant before any person authorized to administer oaths, and shall be endorsed on the back of such bond or attached thereto, upon the production of which, the said commissioner shall execute to the purchaser holding such bond, a deed of conveyance for the lot or lots therein mentioned.

SEC. 4. That in case any person holding any bond upon the said decedent for a deed, shall have lost the same, or the same been destroyed, the person beneficially interested therein, in addition to the matters above mentioned, shall set forth in his affidavit the loss of such bond; and shall also produce the affidavit of the subscribing witness, if any to such bond, or other legitimate proof of its execution by the said decedent, or if transferred, of its transfer to the said holder; upon the

production of which the said commissioner shall be authorized to make such holder a deed for all the property described therein.

SEC. 5. In executing such deed, said commissioner shall substantially recite therein the execution of the bond by the said decedent to the original purchaser; the fact of such transfer, if the same has been transferred; the amount of the consideration money, and the payment thereof; and where such bond shall have been lost, the proof of its execution and loss, together with such other matters as are required to be set forth in the affidavit above mentioned; which deed shall be officially signed and sealed by him, and shall be, together with the bond and affidavit, as above provided for, by him submitted to the circuit court of the said county of Fountain, for their inspection and approval, and upon being acknowledged by him in open court, and duly approved of by such court, shall be deemed to vest in the grantee therein named, all the estate, interest, and claim, which the said decedent held in the same at the time of his death.

SEC. 6. The said Fountain circuit court shall cause the said deed, together with the said bond and affidavit, to be entered at full length on the order book of said court, and shall also direct the original bond, affidavit, and other papers relating thereto, to be filed by the clerk, and carefully preserved by him in his office.

SEC. 7. The said Fountain circuit court shall allow to such commissioner such compensation for his services therein, as they may deem just and adequate, to be paid out of said decedent's estate, in any case where full payment shall have been made to, and a deed demanded of, said decedent in his life time; otherwise to be paid by the person applying for and receiving such deed of conveyance.

CHAPTER LXXXI.

An Act to provide for a re-survey of the enlargement to the town of Jeffersonville.

[APPROVED, JANUARY 24, 1839.]

WHEREAS, it has been represented to the General Assembly of the State of Indiana, that the plat of the enlargement to the town of Jeffersonville, Clark county, is inconvenient, as some of the streets lead into marshes and low grounds, and do not conform to the plan of the original part of said town; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the proprietors of the enlargement to the town of Jeffersonville are hereby authorized, to substitute the new map of said enlargement in place of the one now on record in the recorder's office of Clark county.

SEC. 2. It is hereby made the duty of the proprietors of said enlargement to said town, to cause a survey and re-location of such parts of said enlargement as they may deem necessary, and to file in the recorder's office of Clark county a plat of said survey, which plat, when so recorded, shall supercede the plat originally filed, and be taken and held to be the plat of the enlargement of the town of Jeffersonville, as fully as though no other plat of said enlargement had ever been recorded.

SEC. 3. All acts and parts of acts coming within the purview of this act, be and the same are hereby repealed. This act to take effect and be in force from and after its passage.

CHAPTER LXXXII.

An Act to amend an act entitled, an act to incorporate the town of Paoli, in the county of Orange, approved February 15, 1838.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John H. Campbell, President, and Hazelwood William Craig, Joseph A. Gray, A. J. Simpson, and Henry Miller, they, and their successors in office, be, and they are hereby created and constituted a body politic and corporate by the name and style of the president and councilmen of the town of Paoli; by that corporate name they and their successors, to be elected and qualified as hereinafter provided for by this act and the one to which this is amendatory, shall be able and capable in law and equity, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any court of competent jurisdiction; to make use and have a common seal, and the same to break, alter, and renew at pleasure, to ordain, order, establish, and put into execution, such by-laws and rules as they may or shall deem proper and necessary for the good government and convenience of the people of said corporation, subject to the restrictions and rules hereinafter provided, and not inconsistent with the constitution and laws of this state or of the United States. The president and councilmen, as above named, shall hold their office until the first Monday in March, 1840, and until their successors are elected and qualified as this act and the one to which this is an amendment, may direct.

SEC. 2. The citizens of the town of Paoli shall meet at the courthouse, or some other convenient place in said town on the first Monday in March, 1840, and annually thereafter, or on some subsequent day, a reasonable notice of which shall be given by the president or some one of the council in a newspaper, if there be one printed in the town, and if not, then by setting up three advertisements at the most public

places in said town, to elect by ballot in the usual way of balloting in this state, one president and four councilmen; at which election all free white males of the age of twenty-one and upwards, who shall have lived twelve months in the bounds of the corporation, immediately preceding such election, shall be allowed a vote except such as have been disfranchised or otherwise disqualified. The president and councilmen thus elected shall hold their offices one year, and until their successors are elected and qualified, agreeably to the provisions of this act and the one to which this is an amendment.

SEC. 3. That the first and second sections of the act to which this is an amendment, be, and the same are hereby repealed.

SEC. 4. This act to be in force from and after its passage.

CHAPTER LXXXIII.

An Act relative to the town of Jeffersonville.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the first section of an act entitled, "an act to amend an act entitled an act to incorporate the town of Jeffersonville, in the county of Clark," approved February 17, 1838, be, and the same is hereby repealed.

SEC. 2. *Be it further enacted,* that all that part of the third section of an act entitled, "an act to incorporate the town of Jeffersonville," approved January 28, 1839, that includes the enlargement to said town, made by the Jeffersonville association within the corporate limits of said town, be, and the same are hereby repealed: *Provided, however,* that all that part of the said enlargement to the said town of Jeffersonville, which lies south of the north line of New Market and Fourth streets, together with the public square called the Park, shall be included within the corporation limits of the town of Jeffersonville.

SEC. 3. All acts and parts of acts coming within the purview of this act, be, and the same are hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER LXXXIV.

An Act to legalize certain acts of the Trustees of the town of Bloomington.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acts of the trustees of the town of Bloomington, in relation to levying and collecting taxes for corporation purposes; and in relation to extending the boundary of said corporation; and all other acts not inconsistent with the laws of this state, be, and the same are hereby legalized.

This act to be in force from and after its passage.

CHAPTER LXXXV.

An Act for the relief George D. Prentice, George W. Weissenger and J. B. Moulton, and for other purposes.

[APPROVED, JANUARY 21, 1839.]

Whereas, it has been represented to this body that the above named George D. Prentice, George W. Weissenger, and J. B. Moulton undertook the construction of the bridge on the Jeffersonville and Crawfordville M'Adamized road between New Albany and Jeffersonville, and that since the commencement of the work the plan has been so far changed from what the contractors had a right to expect it would be, as to occasion a very heavy loss to said contractors, and render it impossible for them to complete the work for the original price; and whereas, it is believed that the board of internal improvements consider the case one of equity, but not within their control without some legislative enactment; for remedy thereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of internal improvement be, and they are hereby authorized and directed to make such alteration in the article of agreement between the state and said George D. Prentice, George W. Weissenger, and J. B. Moulton, as they may think proper, so as to allow the said persons a fair and just compensation for performing the work.

SEC. 2. *And be it further enacted,* That in cases where any contractor or contractors, or sub-contractors on the public works have been or may be interrupted in the prosecution of their works, by any providential interference, or by any change in the nature or plan of the work by the board of internal improvement, or by the resident or principal engineer, then, and in such cases, it shall be the duty of the board to take

into consideration the propriety of allowing to said contractor or contractors such additional compensation for extra work, and if in the judgment of said board any additional allowance be justly due to said contractor or contractors they are hereby authorized to grant the same.

This act to take effect and be in force from and after its passage.

CHAPTER LXXXVI.

An Act to authorize Samuel Patterson to build a Toll Bridge.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the right, (if not already possessed) be, and the same is hereby granted to Samuel Patterson of the county of Bartholomew, to erect a toll bridge on the stream called Flat Rock, in said county and on the road leading from Columbus to Indianapolis, which crosses said stream below said Patterson's mills.

SEC. 2. After the completion of said bridge, said Samuel Patterson, his heirs, or assigns, shall have the right to erect a toll gate thereon, and be authorized to charge the following rates of toll, viz: For every four-wheeled carriage drawn by two horses or other animals, twenty-five cents; and for each additional horse or other animal attached to the carriage, six and a fourth cents; for every two-wheeled pleasure carriage, twenty-five cents; for every wagon, cart, sleigh or sled, or other vehicle, drawn by one horse or other animal, eighteen and three fourth cents; for every cart, sleigh, or sled, drawn by two horses or other animals, twenty-five cents; for each man and horse, twelve and a half cents; for each horse or mule, six and a fourth cents; for each head of neat cattle, three cents; for every sheep or hog, one cent; for every foot passenger, six and a fourth cents: and in like proportion for any other animal or carriage: *Provided,* that all persons required to attend military trainings or musters, attending on religious worship, funerals, or in pursuit of a physician, shall pass toll free.

SEC. 3. If any person or persons shall wilfully impair or injure said bridge, he, she, or they so offending shall forfeit and pay to said Samuel Patterson, his heirs or assigns, treble damages, to be recovered in an action of trespass, before any court of competent jurisdiction.

SEC. 4. If any person shall forcibly pass the toll gates of said bridge, without having paid the legal toll, (except persons going for a physician,) he shall forfeit and pay to said Samuel Patterson, his heirs or assigns, five times the amount of legal toll, to be recovered in an action of debt before any court of competent jurisdiction.

SEC. 5. If said Samuel Patterson, his heirs, or assigns, by himself

or agent, shall unnecessarily hinder or delay any passenger at the gate, or shall receive or demand more than legal toll, he or they so offending, shall forfeit and pay for every offence ten dollars, to be recovered by presentment or indictment before the proper court.

SEC. 6. The said Samuel Patterson, his heirs or assigns, shall annually pay five dollars for the privilege herein granted, to be collected in the same manner as taxes on ferries, are provided to be collected. This act to be in force from and after its passage.

CHAPTER LXXXVII.

An Act providing means for the completion of the White river Bridge, on the Michigan road.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it is herein made the duty of the Michigan road commissioner, to complete, if he has not done it, and if it is possible without too much sacrifice, the sale of the residue of the Michigan road lands, on or before the first day of September next, and forthwith make return of the proceeds thereof to the treasurer of state, according to an act authorizing the construction of a bridge over White river, on the Michigan road, approved February 12, 1838; and any neglect or refusal on the part of said Michigan road commissioner, to pay over the money as the sales may be effected to the treasurer of state, or his order, the same shall draw an interest of ten per cent. until paid, all of which, together with the proceeds of the sale of the surplus bridge timber on hand, (which the bridge commissioner is required to sell) are appropriated to the finishing of said bridge and repair of the road.

SEC. 2. *And be it further enacted,* That Banner Lawhead, one of the commissioners who was appointed to superintend the building of the bridge over White river on the Michigan road, be, and he is herein continued a commissioner to finish said bridge, and for other purposes.

SEC. 3. And it is herein made the duty of said Lawhead to correspond with the Hon. Wm. Polke, commissioner of the Michigan road, and ascertain at as early a day as possible, the progress he has made in the disposal of the residue of the Michigan road lands, and what amount of funds he has on hand; and if upon such correspondence it shall happen that there is a sum sufficient to complete the bridge as contemplated in the act authorizing its construction, then, and in that case it shall be his duty further to proceed to let the covering, &c. of said bridge to the lowest responsible bidder, having first given thirty days notice in one or more of the newspapers pub-

lished at Indianapolis, and requiring the work in a reasonable time and in a good workmanlike manner.

SEC. 4. *And be it further enacted,* That it shall be the duty of the said Lawhead to expend the balance of the Michigan road fund in the improvement or repair of the worst places of said road, and where, in his judgment the money can be laid out to best advantage, either by job work or the employment of hands by the day. And the said Lawhead shall keep an exact account of all the time actually and necessarily employed in superintending the finishing said bridge and expending the balance of said money in the repairing of the road, and exhibit the same to the treasurer of state for his examination; and the treasurer of state shall allow said Lawhead a reasonable compensation for his services to be retained out of the road fund.

SEC. 5. And it is also made the duty of the said Lawhead to take receipts or vouchers from contractors for the amount of money paid them, and for what species of labor performed, and present the same to the treasurer of state on the final settlement; and the said Lawhead and Bowers, the present bridge commissioners, shall each be entitled to retain twenty-five dollars in addition to their former salary for extra services performed in superintending the erection of said bridge.

This act to be in force from and after its passage.

CHAPTER LXXXVIII.

An Act relative to roads in Parke county.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, in the month of November, 1832, the records of Parke county, were destroyed by fire in the burning of the clerk's office of said county, (including the records of all state and county roads located in or through said county, previous to the destruction of the said records,) in consequence of which much trouble and inconvenience has arisen from the uncertainty of the original location of said state and county roads: Wherefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be, and it is hereby made the duty of the board of commissioners of said county at their next May session, to appoint some competent surveyor, whose duty it shall be to survey and mark said state and county roads in the manner hereinafter provided.

SEC. 2. It shall be the duty of said board at said May session to designate the beginning and termination of each and every state and county road in said county, the record whereof has been destroyed as aforesaid, and cause their clerk to make a record thereof.

SEC. 3. That said surveyor, so soon as he shall have received a

or agent, shall unnecessarily hinder or delay any passenger at the gate, or shall receive or demand more than legal toll, he or they so offending, shall forfeit and pay for every offence ten dollars, to be recovered by presentment or indictment before the proper court.

SEC. 6. The said Samuel Patterson, his heirs or assigns, shall annually pay five dollars for the privilege herein granted, to be collected in the same manner as taxes on ferries, are provided to be collected. This act to be in force from and after its passage.

CHAPTER LXXXVII.

An Act providing means for the completion of the White river Bridge, on the Michigan road.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it is herein made the duty of the Michigan road commissioner, to complete, if he has not done it, and if it is possible without too much sacrifice, the sale of the residue of the Michigan road lands, on or before the first day of September next, and forthwith make return of the proceeds thereof to the treasurer of state, according to an act authorizing the construction of a bridge over White river, on the Michigan road, approved February 12, 1838; and any neglect or refusal on the part of said Michigan road commissioner, to pay over the money as the sales may be effected to the treasurer of state, or his order, the same shall draw an interest of ten per cent. until paid, all of which, together with the proceeds of the sale of the surplus bridge timber on hand, (which the bridge commissioner is required to sell) are appropriated to the finishing of said bridge and repair of the road.

SEC. 2. *And be it further enacted,* That Banner Lawhead, one of the commissioners who was appointed to superintend the building of the bridge over White river on the Michigan road, be, and he is herein continued a commissioner to finish said bridge, and for other purposes.

SEC. 3. And it is herein made the duty of said Lawhead to correspond with the Hon. Wm. Polke, commissioner of the Michigan road, and ascertain at as early a day as possible, the progress he has made in the disposal of the residue of the Michigan road lands, and what amount of funds he has on hand; and if upon such correspondence it shall happen that there is a sum sufficient to complete the bridge as contemplated in the act authorizing its construction, then, and in that case it shall be his duty further to proceed to let the covering, &c. of said bridge to the lowest responsible bidder, having first given thirty days notice in one or more of the newspapers pub-

lished at Indianapolis, and requiring the work in a reasonable time and in a good workmanlike manner.

SEC. 4. *And be it further enacted,* That it shall be the duty of the said Lawhead to expend the balance of the Michigan road fund in the improvement or repair of the worst places of said road, and where, in his judgment the money can be laid out to best advantage, either by job work or the employment of hands by the day. And the said Lawhead shall keep an exact account of all the time actually and necessarily employed in superintending the finishing said bridge and expending the balance of said money in the repairing of the road, and exhibit the same to the treasurer of state for his examination; and the treasurer of state shall allow said Lawhead a reasonable compensation for his services to be retained out of the road fund.

SEC. 5. And it is also made the duty of the said Lawhead to take receipts or vouchers from contractors for the amount of money paid them, and for what species of labor performed, and present the same to the treasurer of state on the final settlement; and the said Lawhead and Bowers, the present bridge commissioners, shall each be entitled to retain twenty-five dollars in addition to their former salary for extra services performed in superintending the erection of said bridge.

This act to be in force from and after its passage.

CHAPTER LXXXVIII.

An Act relative to roads in Parke county.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, in the month of November, 1832, the records of Parke county, were destroyed by fire in the burning of the clerk's office of said county, (including the records of all state and county roads located in or through said county, previous to the destruction of the said records,) in consequence of which much trouble and inconvenience has arisen from the uncertainty of the original location of said state and county roads: Wherefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be, and it is hereby made the duty of the board of commissioners of said county at their next May session, to appoint some competent surveyor, whose duty it shall be to survey and mark said state and county roads in the manner hereinafter provided.

SEC. 2. It shall be the duty of said board at said May session to designate the beginning and termination of each and every state and county road in said county, the record whereof has been destroyed as aforesaid, and cause their clerk to make a record thereof.

SEC. 3. That said surveyor, so soon as he shall have received a

copy of his appointment, which copy it is hereby made the duty of said clerk to make out and cause to be delivered to him, shall appear before said clerk, and take an oath truly and faithfully to discharge the duties required of him by this act, which oath shall be endorsed on the back of his appointment, and a copy thereof filed in the clerk's office.

SEC. 4. That so soon as said surveyor shall have been appointed and qualified as aforesaid, shall take to his assistance two chain bearers, and proceed to survey and measure said state and county roads between the points designated by said board of commissioners, laying and locating the same precisely upon the same ground of their original location, if the same can be ascertained, varying only where such roads may have been legally changed by the board of commissioners, and where such legal changes have been made, then said surveyor shall lay and locate the same upon the ground as directed by said board in making such change.

SEC. 5. Said surveyor shall keep a record of the courses and distance of each road separately and distinctly, one from another, which record said surveyor shall sign, and return to the clerk's office of said county within four months from the date of his appointment.

SEC. 6. The said clerk shall lay said reports of said surveyor before said board at the session next after the return thereof, and said board shall carefully examine said reports, and if they find them correct, they shall order the said reports to be confirmed and recorded in the book of said board.

SEC. 7. That each road reviewed as aforesaid shall, after the report thereof shall have been made by said surveyor and confirmed and recorded as required in the sixth section of this act be deemed a public highway, and shall moreover be opened and kept in repair according to the laws regulating state and county roads.

SEC. 8. The board of commissioners shall allow the said surveyor the sum of two dollars per day, and to each of said chain bearers the sum of one dollar per day for their services, out of any money in the treasury, not otherwise appropriated; and said surveyor shall keep an accurate statement of the number of days he, as well as said chain bearers, served under this act, and testify under oath before said board, as to the correctness thereof.

SEC. 9. That so much of the old state road, leading from Terre Haute to Crawfordsville, through the New Discovery, in Parke county, as lies in said county of Parke, be, and the same is hereby vacated, and the board doing county business, shall have full power to open and keep in repair the streets and alleys in the town of Rockville, until the town shall be incorporated.

CHAPTER LXXXIX.

An Act authorizing the location of a state road leading from Allisonville, in the county of Marion, to Franklin, in the county of Johnson.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jacob Springer, of the county of Marion, and Abraham Hosier, of Johnson county, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing at Allisonville, in Marion county, thence on the nearest and best route to Johnson's mills, on Fall creek, thence south on a county road heretofore laid on the range line, dividing ranges four and five to the Brookville state road, thence south, diverging east from said line, where the ground will best suit for the location of a good road, so as to gain the north east corner of J. Springer's land, thence south on the open line by the steam saw mill, and thence through Lewis O'Neal's lane, and from thence southward, on the nearest and best route to the town of Franklin, the county seat of Johnson county.

SEC. 2. That it shall be the duty of said commissioners, having previously taken an oath or affirmation, before some person duly authorized to administer oaths, to proceed during the ensuing summer, to view, mark, and locate said road, agreeably to the first section of this act, taking to their assistance, a skilful surveyor, if they deem it necessary, and make report of such location, to the clerks' offices of the counties of Marion and Johnson.

SEC. 3. That it shall be the duty of the boards doing county business in the respective counties, to allow said commissioners and surveyor, if there should be one employed, two dollars per day each, for every day necessarily employed, to be paid in proportion to the distance said road runs in each county, out of the county treasuries respectively, and the clerks aforesaid shall file and keep the report of the survey and location of said road, among the records of their respective offices.

CHAPTER XC.

An Act to authorize a survey on Pattoka river, in Gibson, Pike, Dubois and Orange counties.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the chief engineer of the state of Indiana, make, or cause to be made, such examination on the navigation of Pattoka river or creek,

from its mouth as high up the same as they may think advisable, for the navigation of the same, some time in the year 1839, if such time of such engineers can be spared from the public service, without causing any additional expense to the state, or to cause so much of the examination as they may find time, without increasing the expense to the state, and report to this house at their next session, what would be the most practicable mode of improving the navigation of the aforesaid river or creek. This act to be in force from and after its passage.

CHAPTER XCI.

An Act relative to the Clay County Seminary.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the qualified voters of Clay county are hereby authorized at their annual election in April, 1839, and annually thereafter, to elect in each township a trustee for the Clay county seminary, who shall hold their offices for one year, and until their successors are chosen and qualified.

SEC. 2. That if the said qualified voters of said county should at any time fail to elect all or any of said trustees as herein provided; then, and in that case it is made the duty of the board doing county business for said county to appoint some suitable person or persons to fill each and every such vacancy at their next term.

SEC. 3. That said trustees when so elected or appointed are hereby constituted a body politic and corporate, and as such, may sue and be sued, plead and be impleaded in any court having competent jurisdiction, and shall have perpetual succession.

SEC. 4. That said trustees after being duly qualified before some person authorized to administer oaths, and having given each a bond, made payable to the State of Indiana, and approved by the board doing county business, in such sum as they may direct, which bond shall be filed in the office of the clerk of the circuit court of said county, for the benefit of the parties interested, shall be authorized to borrow from any individual or individuals, corporation or corporations, any sum or sums of money they may think proper, for the use of said seminary; *Provided*, that they shall in no case pay any greater rate of interest than six per cent. per annum for any such moneys.

SEC. 5. Said trustees hereby constituted shall be authorized to settle with and receive from the present board of seminary trustees the seminary building erected by said trustees, and to settle with the shareholders of stock in said corporation on such terms as may be just and right.

SEC. 6. That Oswald Thomas, the treasurer of the present board of trustees be, and he is hereby authorized, and it is made his duty to bring suit in his name as such trustee on and collect all funds from every person due said seminary fund and to settle as far as practicable, all lawful and duly authenticated claims against said fund; and to pay over all moneys, books and papers, to the order of the board of trustees hereby created.

SEC. 7. Any three members of said board of trustees, hereby authorized to be created, shall form a quorum for the transaction of business.

SEC. 8. That said trustees shall be governed in all respects, where this act shall be silent, by the provisions of an act entitled "an act relating to county seminaries," approved, February 17, 1838.

SEC. 9. All laws and parts of laws contravening the provisions of this act be, and the same are hereby repealed.

This act to be in force from and after its publication.

CHAPTER XCII.

An Act to extend the privileges granted to the Salem Savings Institution.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the president and directors of the Salem Savings Institution may, if they shall deem it expedient, or find it necessary, increase the capital stock of said institution two hundred thousand dollars, to be divided in shares of fifty dollars, as prescribed by the act entitled "an act to incorporate the Salem Savings Institution," approved, February 6, 1836.

This act to take effect and be in force from and after its passage.

CHAPTER XCIII.

An Act to change the name of the town of Ceylon, to Andersonville.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of the town of Ceylon, in Franklin county be, and the same is hereby changed to that of Andersonville.

This act to take effect and be in force from and after its passage.

CHAPTER XCIV.

An Act supplemental to an act entitled "an act to amend an act entitled an act to incorporate the town of Princeton," approved December the 20th, 1838.

[APPROVED FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the operations of the third section of the act to which this is a supplement be, and the same are hereby suspended until the first Monday in May, 1840.

This act shall take effect and be in force from and after its publication.

CHAPTER XCV.

An Act to locate a state road from New Albany in Floyd county, to Charlestown in Clark county.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John K. Graham and Seth Woodruff of Floyd county, and John Bottorf and Francis Wells, of Clark county be, and they are hereby appointed commissioners to view, mark and locate a state road from the town of New Albany in Floyd county, to the town of Charlestown in Clark county.

SEC. 2. The said commissioners, or any two of them, being one from each county, shall meet at the town of New Albany on the first Monday in March next, or as soon thereafter as they may think proper, and after taking an oath or affirmation faithfully to discharge the duties assigned them, shall proceed to view, mark, and locate said road on the nearest and best ground that can be had between said points, and shall within thirty days thereafter, cause a report thereof to be filed in the respective clerks' offices of the counties of Clark and Floyd, the same to be recorded in the record books of said counties, within ten days thereafter.

SEC. 3. The commissioners aforesaid may, if they deem it expedient, employ a surveyor and chain carriers to assist in locating said road, and shall keep an account of the number of hands employed and the time occupied in discharging the duties enjoined on them by this act, a copy of which it shall be their duty to file in the clerks' offices of the respective counties, and by such clerks laid before the boards doing county business, at their next term.

SEC. 4. That the boards doing county business in the respective counties named in this act, shall when the accounts of said commission-

ers are laid before them, make such order for the payment of the same as they shall deem just and reasonable, which amount shall be paid by each county in proportion to the distance of road in each county, the same to be paid out of the county treasuries.

SEC. 5. That it shall be the duty of the respective boards doing county business in said counties to order said road to be opened any width not exceeding fifty feet, and made agreeably to and under the provisions of an act for opening and repairing roads and highways.

SEC. 6. That should any vacancy happen by death, resignation or otherwise, the boards doing county business in the county where the vacancy happens, shall appoint and fill such vacancies.

SEC. 7. This act is declared a public act, and shall be in force from and after its passage.

CHAPTER XCVI.

An Act for the relief of John Miller and Lavinia Miller his wife,

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, John Miller and Lavinia Miller, late Louisa Kemple, of Marion county, have represented to this General Assembly that they are the lawful owners of the south-east quarter of section No. twenty-three (23,) in township No. thirty-two (32,) north of range No. three (3) east, of the district of lands offered for sale in the town of Laporte, Indiana, and that they have bargained and sold the said tract of land to one Ira Hollingsworth of Marion county, but cannot complete the conveyance owing to the minority of the said Lavinia Miller, late Lavinia Kemple, for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the said Lavinia Miller, late Lavinia Kemple be, and she is hereby authorized to convey her right of dower in and to the south-east quarter of section twenty-three, township thirty-two, north of range three east, to Ira Hollingsworth of Marion county in as full and ample a manner as she could do were she of lawful age, any law, usage, or custom to the contrary notwithstanding.

This act to take effect from and after its passage.

CHAPTER XCVII.

An Act to locate a State road in Greene county.

[APPROVED, FEBRUARY 8, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That James Stalcup, Thomas Clark, Vincent Fry and Bartholomew Elensworth, or any three of them, be and they are hereby appointed, commissioners to view, mark, and locate a state road on the nearest and best ground, from the residence of James Stalcup, in said county, by the way of Point Commerce, and from thence in a direction to Terre Haute, so as to intersect the Smith's ferry road at or near the residence of Vincent Fry, on said road.

SEC. 2. That the commissioners after having taken an oath or affirmation, faithfully and impartially to discharge their respective duties according to the provisions of this act, shall at any time before the first day of July, 1839, proceed to view, mark and locate said road, and within thirty days thereafter, to file a report of their proceedings in the office of the clerk of the county aforesaid.

SEC. 3. That the board during county business shall, at their first meeting after the report has been filed in the clerk's office aforesaid, cause said road to be placed under the care of a suitable supervisor, whose duty it shall be to open and keep the same in repair, as other state roads are opened and repaired in this state.

SEC. 4. That for the purposes of aiding in opening said road, all the moneys heretofore appropriated out of the three per cent. fund belonging to Greene county, and placed in the hands of Caleb Jessup to build a bridge across Eel river at or near its junction, and yet unexpended, be and the same is hereby appropriated for the purposes of opening said road, and the repairing Smith's ferry road east of White river, in said county, and made subject to the order of Amos Owen, whose duty it shall be, after the location of said road, to cause the same to be opened, causing such rough bridges to be made over such ravines or bayous, that may be on the road, so as to make it passable at all times for wagons; and after the work is done as above named, he shall cause the remaining part of such money to be expended on the Smith's ferry road, east of White river; and it shall be the duty of the above named Amos Owen, to file a bond, with sufficient security, before the board doing county business, for the faithful performance as commissioner, to expend such money, before entering upon his duty as commissioner.

SEC. 5. The commissioners appointed to locate said road, shall be allowed one dollar per day for every day necessarily employed in locating such road, to be paid out of the money appropriated for opening the same by this act. This act to take effect and be in force from and after its passage.

CHAPTER XCVIII.

An Act concerning a road in Porter and Lake counties.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Ruel Starr and Lewis Comer, of Porter, and George Earle, of Lake county, be and the same are hereby appointed commissioners to review the state road located from Valparaiso, in Porter, to Liverpool, in Lake county.

SEC. 2. It shall be the duty of said commissioners to meet at the court house in Valparaiso, on the first Monday in April next, or some subsequent day, thence to proceed to review the road aforesaid, and it shall be the duty of said commissioners to make such examinations of other proposed routes for said road as they in their discretion may deem necessary.

SEC. 3. Should said commissioners consider that any change in said road would conduce to the interest of the citizens of said counties, they are hereby authorized to re-locate the same; and upon the filing of such change as may be made in the location of said road in the clerk's office of the proper county, then such portion of the old route is to be vacated.

SEC. 4. The said commissioners shall deposit in the clerk's office of the proper counties, correct and definite field notes of all such change or re-location of said road as they may make.

SEC. 5. Said commissioners shall be governed in all matters by the general act upon the subject of the location of state roads, except as otherwise provided for by this act.

This act to be in force from and after its passage.

CHAPTER XCIX.

An Act to re-locate a part of the Greenfield and Franklin state road.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Joseph Tetrick of Johnson county, be and he is hereby appointed a commissioner, to view, mark, and re-locate so much of the Greenfield and Franklin state road, as lies between the east line of section twenty-eight, in township thirteen of range five, and where the same intersects the Beard's mill county road, so as to intersect said county road at or near Thomas Needham's, and that so much of said county road as lies between Thomas Needham's and where the said state road intersects, be and the same is hereby declared a part of such state road.

SEC. 2. The said commissioner making his report shall in all things conform to an act relating to public roads and highways, approved, February 17, 1838.

This act to take effect and be in force from and after its passage.

CHAPTER C.

An Act to establish certain state roads therein named, and for other purposes.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Ariel Walden, Daniel Strong, and Lott Herrick, be, and they are hereby appointed, commissioners, to view, mark, and locate a state road from Cedarsville, in Allen county, to the south west corner of section seven, in township thirty-three, north of range fifteen east; thence north on the township line to the corner of sections seven and twelve; thence to strike the bluff of the Saint Joseph's river, in section five, in township thirty-three north, of range fifteen east; thence in the same direction to the state line of Ohio.

SEC. 2. That George Nobles, Levi Wright, and Philo Taylor of La Grange county, be, and they are hereby appointed commissioners, to view, mark, and locate a state road from the town of North Port, in Noble county, to the Union Mills, in La Grange county.

SEC. 3. That Samuel Wilter, Esquire, of the county of St. Joseph, be, and he is hereby appointed a commissioner, to view, mark, and locate a state road, to commence at Portage Point, in the county of St. Joseph, thence running in a northeasterly direction to the east line of section twenty-seven, in township thirty-eight north, of range two east, thence north on the best and most suitable route to the northern boundary line of the state of Indiana.

SEC. 4. That Levi Middleton, of the county of Montgomery, and William Young, of the county of Boon, be and they are hereby appointed commissioners, to view, mark, and locate a state road from the intersection of the Crawfordville and Frankfort state road, at Hasel creek, thence in the direction to Thorntown, to intersect the Covington and Strawtown state road, at or near Clear creek, in Boone county.

SEC. 5. That James Hammersly, of the county of Washington, Jacob Sharley, John Pennick, of the county of Orange, be, and they are hereby appointed commissioners, to view, mark, and locate a state road from the east fork of White river, commencing at Spack's ferry on said river, in the county of Washington, and thence on the nearest and best ground, by way of Orleans, to intersect the state road from Paoli to Princeton, at or near the French Lick, in said county of Orange,

SEC. 6. That Laughery creek is hereby declared a public highway, from the crossing of the Indianapolis and Lawrenceburgh state road, up to Daniel H. Lawren's saw mill in Ripley county; and it is hereby made the duty of the proper authorities of the county of Ripley to recognize it as such.

SEC. 7. That Joseph A. Gray, of the county of Orange, Ninphon Haskins of the county of Crawford, and T. B. Phillips of the county of Perry, be, and they are hereby appointed commissioners, to view, mark and locate a state road on the nearest and best ground, from the town of Paoli, in the county of Orange, to Troy, in the county of Perry, on the Ohio river.

SEC. 8. That Joseph Gondie, John C. Johnson, and Thomas Shank, of the county of Franklin, be, and they are hereby appointed commissioners, to view, re-locate, and lay out the following road, commencing on the top of the hill, near an old school house, on the land of William West, thence along close to the White Water canal, on the south side thereof, until it strikes the bridge across said canal, at the foot of Brown's hill.

SEC. 9. *And be it further enacted,* That it shall be the duty of the board of county commissioners, of Franklin county, in the state aforesaid, to vacate so much of the state road from Brookville to Lawrenceburgh, approved, January 22, 1820, as lies between said points, so soon as said commissioners shall lay out said new road, and the same made passable.

SEC. 10. That Michael Asher, Charles Sumption, and John Wilson, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing at Winchester, in Randolph county, thence to Ridgeville, near Ward's landing on the Mississinawa, thence the nearest and best route to Mount Pleasant, thence to Camden, in the county of Jay, by the way of the bridges across Brook's creek, and Salamoni river, in the aforesaid county of Jay, thence the nearest and best route to Bluffton, the county seat of Wells county.

SEC. 11. That A. T. Welton, of the county of Fulton, and Jacob S. Ricker, of the county of Miami, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, to commence at or near the centre of section twenty six, in township twenty-eight north, of range two east, on the state road leading from Logansport, Cass county, to Laketon, Wabash county, thence on the nearest and best ground to the centre of section twenty-three, in township twenty-nine north, of range three east, thence on the nearest and best ground to cross the Rochester, Whitley county state road, at Wesley post office, in Fulton county, thence on the nearest and best ground, to intersect the Rochester and Warsaw state road, at Lummey's mill, Kosciusko county.

SEC. 12. That the one hundred and fifty fourth section of an act entitled, an act to establish state roads therein named, and for other purposes, approved, February 17, 1838, be, and the same is hereby repealed.

SEC. 13. That Christopher Lightfoot, of the county of Kosciusko be, and he is hereby appointed a commissioner, to re-locate a part of the state road leading from Logansport to Goshen, commencing at the south end of the bridge crossing the Large Turkey creek, in town thirty four north, of range six east, thence northwardly to where the bridge strikes the north bank of said creek, thence north on the main street of the town of Milford, to a point due west of the half mile or quarter stake, standing on the line of sections eight and nine in said town, thence east till it intersects the state road as now located.

SEC. 14. That in the fifty fourth section of an act to establish and re-locate certain state roads therein named, and for other purposes, approved, February 3, 1837; that said section should read Rainsville, in lieu of Hainesville.

SEC. 15. That James Brittain, of Miami, and Jacob Briant, of the county of Wabash, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing on the Wabash and Erie canal, where the line between the counties of Miami and Wabash crosses the canal; thence on or as near the county line as will be most conducive to the public good, to the crossing of Eel river, at Squirrel's village; thence near the county line, intersecting the Logansport and Laketon state road, where the county line crosses the same.

SEC. 16. That Aaron Roads, of the county of Miami, be, and he is hereby appointed a commissioner to re-locate a part of the state road from Logansport to Noble county, commencing at the twenty-second mile tree from Logansport; from thence with the Logansport and Laketon state road, to the crossing of the middle fork of Squirrel's creek; from thence to the old survey, near Big Lake on section sixteen, township thirty north, of range five east.

SEC. 17. That William B. Blain, of the county of Kosciusko, be, and he is hereby appointed a commissioner to survey, mark, and locate so much of a certain state road, as was heretofore located, between Warsaw, the county seat of said county, and the south line of township thirty-one north, of range six east.

SEC. 18. That Tence Massey, of Grant county, be, and he is hereby appointed a commissioner, to view, mark, and locate a state road from Marion, in Grant county, on the nearest and best ground, to Indianapolis, in Marion county: *Provided*, that if the commissioner shall be of opinion that the public interest will be as well served by intersecting the main road leading from Indianapolis, via Noblesville to Strawtown, or between said town and Indianapolis, he shall have power to do so.

SEC. 19. That Elias Murray and Joseph Pratt, of the county of Wabash, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at the end of Daniel Ballinger's field, on the Logansport and Fort Wayne state road; thence through the town of Lagrow, on Main street; thence north of the bluffs of the Wabash river on the best route and to intersect the Logansport and Fort Wayne state road at some suitable point in Huntington county; and that the one hundred and twenty-seventh section

of "an act for establishing state roads and for other purposes," approved, February 17, 1838, be, and the same is hereby repealed.

SEC. 20. That John Dumi, of Grant county, and Daniel Jackson of Wabash county, be, and they are hereby appointed commissioners, to view, mark, and re-locate a state road leading from Marion in Grant county, to the town of Wabash, in Wabash county, so as to locate said road from Marion, down the Mississinewa river on the west side of said river, to J. Sutton's ford; thence across said river; thence on the most direct and practicable ground to Wabash, in Wabash county: *Provided, however*, That said commissioners, if they may consider the public as well served by connecting said re-location with the present location after leaving said Sutton's ford, at some suitable point in Wabash county, they have power to do so, and save any farther expense and re-location.

SEC. 21. That Westly Parke, John Strouse, and Alexander Gifford, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Auburn in De Kalb county, to Port Mitchell, in Noble county.

SEC. 22. That the county road, commencing at Milton, in the county of Wayne, running thence west, on or near the line between townships fifteen and sixteen, until it intersects what is called the old state road, near Robert Murphy's farm, is hereby declared a state road, and it is hereby made the duty of the supervisors to proceed as soon as convenient, to open said road a suitable width on the line, or as near as may be between townships fifteen and sixteen.

SEC. 23. The state road from where said road as above described intersects, running from thence west, until it intersects the state road from Connersville, to Lewisville, in Henry county, is hereby declared a public road. And it is hereby made the duty of supervisors through whose districts said road passes, to work and improve the same as is required by law.

SEC. 24. That Charles Vail of the county of Elkhart, be, and he is hereby appointed a commissioner to view, mark, and locate a state road to commence at the town of Benton in said county of Elkhart; thence on the nearest and best route to the town of Bristol, in the county aforesaid.

SEC. 25. That George Boils of the county of Elkhart, be, and he is hereby appointed a commissioner to view, mark, and locate a state road to commence at the town of Benton, in said county of Elkhart; and thence on the nearest and best route to the town of Middleburgh in the county aforesaid.

SEC. 26. That Jesse Johnston, Jesse Whitcomb, and William C. Bramwell, of the county of Jennings, be, and they are hereby appointed commissioners to view, mark, and locate a state road, beginning at the town of Scipio in the county of Jennings, and to be located on the nearest and best route to Jesse Whitcomb's, at the Six Mile post office; thence on the nearest and best route to the town of Paris, in the said county of Jennings, passing near Noah Sullivan's, and the late residence of Ebenezer Branden, deceased.

SEC. 27. That James Johnson and Ebenezer Lewis, of the county of Jennings, and Miles Mendenhall, of the county of Ripley, be, and they are hereby appointed commissioners to view, mark, and locate a state road from the town of Napoleon, in Ripley county to Ebenezer Lewis', in Jennings county; and thence to intersect the Madison state road at or near James Johnson's, in said county of Jennings; and the said commissioners, in the location of said road, shall, as far as practicable, confine the location to the present county road of said route.

SEC. 28. That so much of the Marion road as lies between townships thirty and thirty-one in the county of Kosciusko, all that part of said road that passes through the above townships, in range six east, be, and the same is hereby repealed.

SEC. 29. That Samuel Hammond of Wabash county, be, and he is hereby appointed a commissioner to view, mark, and locate a state road, commencing at Harte's mill at the south-east corner of section twenty-four, in town thirty, north of range six east; thence west, or as near as practicable, on the section lines, until it connects with the state road leading from Peru in Miami county, to Warsaw in Kosciusko county.

SEC. 30. That Charles Welber, be, and he is hereby appointed a commissioner to view, mark, and locate a state road commencing at the state line, at or near the Defiance state road; thence across the St. Joseph River, at or near the mill in Orangeville; thence to the south-east corner of section eleven, in township thirty-three, range fourteen east; thence to follow a section line as near as practicable to the north-west corner of section sixteen; thence to follow the county road as near as practicable to Auburn.

SEC. 31. That John C. Parkison, of Newton county, and Lewis Dawson of Pulaski, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at the rapids of the Iroquois in Newton county; thence to section six, in town twenty nine, range five; thence to White post; thence to Winnemack, in Pulaski county.

SEC. 32. That William Puree, of Fountain county, be, and he is hereby appointed commissioner to mark and locate a state road commencing on the state road at the first mile post from the commencement of the road leading by Daniel's or Wilmonth's mill on King's branch; thence to the state line of Illinois, running from said post or stake to the east bank of the Wabash river; thence north-east with the bank of said river as near as may be to the house of Alkius; thence to Chamberleng on the route of the county road from said Alkius, and the said county road be, and the same is hereby declared a state road.

SEC. 33. That William Mitchell, of White county, is hereby appointed a commissioner to locate a state road from Monticello to Lockport, in Carroll county.

SEC. 34. That Robert Newell, of White county, is hereby appointed a commissioner to locate a state road commencing at or near where the road from Shuetz's mill to Monticello strikes the Lafayette and Monticello state road to Shuetz's mill, on Tippecanoe river; thence to J. M. Evan's; thence the nearest and best route to Pittsburgh; thence with

Tippecanoe street, across the Wabash river; thence on the east side down the river until it intersects the state road from Spring creek to Delphi. The commissioner appointed shall locate said route, doing as little injury to private property as public utility will admit of.

SEC. 35. That Samuel Ewing, of the county of Perry, and Mason Bird, of the county of Crawford, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at Jonathan D. Esra's, on the Boonville road, running thence so as to cross Little Blue river, at or near John Parr's; from thence to the town of Leavenworth.

SEC. 36. That James N. Stephens, be, and he is hereby appointed a commissioner to view, mark, and locate a state road commencing at Daniel Dale's, in White county, to run on the south boundary of section sixteen, in township twenty-eight, of range one east; thence the most convenient route to the Michigan road at or near the Eight Mile post, north of Logansport in Cass county.

SEC. 37. That William Yocum, of the county of Clay, and Tobias Miller, of the county of Parke, be, and they are hereby appointed commissioners to view and re-locate, on the best route, so much of the state road leading from Carlisle, in the county of Sullivan, to Crawfordsville in the county of Montgomery, as lies between the residence of Daniel Webster, in the county of Clay, and Strain's mill, in the county of Parke.

SEC. 38. That George P. Tery, of Pulaski county, and Robert Martin of Fulton county, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Winnemac to Rochester.

SEC. 39. That Abner Edwards and George Hopkins, of the county of Spencer, be, and they are hereby appointed commissioners to locate a state road commencing at or near the mouth of Anderson's river, in Spencer; thence to Robb's mill on Crooked creek; thence on the best route so as to intersect the road leading from Huffman's mill to Boonville, at or near Gentrysville.

SEC. 40. That so much of the road leading from New Albany, in Floyd county, via Lanesville and Corydon, and to the Harrison county line, adjoining the county of Crawford, at or near Levi Grant's, be, and the same is hereby declared a state road.

SEC. 41. That Adam S. Campbell and David Oaks, of the county of Porter, be, and they are hereby appointed commissioners to view, mark, and locate a state road beginning at the town of Portersville, in Porter county; thence running westwardly in the direction of Juliett, Illinois, so as to intersect the state road running in the direction of Juliett aforesaid, near Preston Blake's or James Walton's.

SEC. 42. That all that part of the eighty-third section of an act, entitled, an act to establish certain state roads therein [named] and for other purposes, approved February 17, 1838, which declares all that part of said road that has been opened by Thomas Wallace, in township number three, south of range number ten west, be taken and deemed a part of said road, be, and the same is hereby repealed, and

that so much of the old road as lies between the point where said Wallace has made the alteration, be, and the same is hereby declared to be a part of said state road.

SEC. 43. That Thomas J. Harvey of the county of Rush, and George Flint and James Webb, of the county of Franklin, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Rushville, in Rush county, to Andersonville and Laurel, to Brookville, in Franklin county.

SEC. 44. That Levi Ridgeway and James Doty, be, and they are hereby appointed commissioners to review, and, if in their opinion, the public good requires it, to re-locate so much of the state road from Merom to Rawley's mills, as lies between the centre of section number nine, range eight west, township nine, north of Rawley's mills, with leave to terminate the same at Centreville. The commissioners hereby appointed, shall be governed as to time and place of meeting, making returns, and in all other respects as other commissioners appointed for other purposes by the provisions of this act.

SEC. 45. That the county road commencing at the crossing of Blue river, where the Rushville and Greenfield state road crosses the same, running thence in a northerly direction through Charlottesville, in Hancock county, to where it intersects the Knightstown and Pendleton state road, shall be, and the same is hereby declared to be a state road.

SEC. 46. That John Andrews, Elijah Peunick, and William Wolfington, be, and they are hereby appointed [commissioners] to view, mark, and re-locate or change so much of the state road from Fredonia, in Crawford county, to Mount Pleasant, in the county of Martin, as lies west of the house of John Andrews, in the county of Orange, so as to intersect the Paoli and Princeton state road in the north-east quarter of section two, town one, north of range two west; thence with said road, to a point at or near the French Lick, and from thence to intersect the New Albany and Vincennes turnpike road, at or near the blacksmith shop of William D. Lynch, in the said county of Orange, in section twenty, town two, north of range two west, on the nearest and best ground from point to point, and report the same to the board doing county business, whose duty it shall be to direct the opening of the same without delay.

SEC. 47. That Samuel Crossen, of Kosciusko county, Thomas H. Wilson, of Noble county, be, and they are hereby appointed commissioners to view, mark, and locate a state road from Sparta, in Noble county, to Syracuse, in Kosciusko county.

SEC. 48. That Salmon Tripps of the county of Warren, and Andrew Wilson of the county of Fountain, be and they are hereby appointed commissioners, to view, mark, and lay out a state road, leading from Crawfordsville, in Montgomery county, to Independence, in the county of Warren.

SEC. 49. That Thomas W. Kirkpatrick and Peter L. Runyan, of the county of Kosciusko, be and they are hereby authorized and directed to survey, mark, and locate a state road, from the county seat of Whitley county, on the nearest and most practicable route to the

town of Oswego, thence, on the nearest and most practicable route, to the town of Leesburgh, in the county of Kosciusko, aforesaid.

SEC. 50. Philander A. Paine and William C. Talcott, of Porter county, be and they are hereby appointed commissioners, to view a route from the road running from Valparaiso, via Sherwood's ferry, beginning at the same point between Valparaiso and said ferry, thence by Ruel Starr's; thence to a county road running north on a line dividing sections nineteen and twenty, in township twenty-five, north of range five west, to extend said road to City West; and the county road aforesaid is hereby declared to be a state road.

SEC. 51. That William C. Talcott and Adam S. Campbell, of Porter county, be and they are hereby appointed commissioners, to view, mark, and locate a state road, from Portersville running west, to intersect a state road at Preston Blake's or James Walton's.

SEC. 52. That William C. Talcott, of Porter county, be and he is hereby appointed a commissioner to view, mark, and locate, a state road from Valparaiso, via Enos Thomas' mill, to City West.

SEC. 53. That William C. Talcott, of Porter county, be and he is hereby appointed a commissioner to view, mark, and re-locate a part of a state road running from Valparaiso via Sherwood's ferry; to commence at the south east corner of the public square, in the town of Valparaiso, thence south along Jefferson street to the south side of the town plat; thence to Jacob Axe's mill; thence to intersect the present road at or near Archibald Demond's; as soon as the re-location is made and established, and opened, that part of the old road from Valparaiso to the aforesaid Demond's, shall be, and is hereby vacated.

SEC. 54. That William K. Talbott and Henry Kenker, of Porter county, be and they are hereby appointed commissioners, to view, mark, and locate a state road, beginning at the Michigan road, at or near Pagan's mill, in Laporte county, thence to the centre of section seventeen, in township thirty-seven, north of range five west; thence to City West; thence to Long Lake, so as to intersect a certain state road near to the head of said Lake.

SEC. 55. That the road leading from Charlottesville by Charles White's, in Hancock county, to Elizabeth City, in Henry county, be and the same is hereby declared a state road.

SEC. 56. That the county road running from Portland, in Fountain county, via Solomon Hatfield's to Newtown, in said county, is hereby declared a state road from Portland aforesaid, to the point of junction or intersection of said county road; and the state road from Covington to Newtown, in said county.

SEC. 57. That Jacob Wicoff, of Fountain county, be and he is hereby appointed a commissioner, to view, mark, and locate a state road, from the bank of the Wabash river, at Portland, to Newtown, in the said county of Fountain.

SEC. 58. That Erasmus Brugmn, of Wabash county, be and he is hereby appointed a commissioner, to view, mark, and re-locate so much of the state road leading from Rochester, in Fulton county, to the county seat of Whitley county, as lies between the east side of

Kosciusko county and Bingum's bridge, in Wabash county, and in making said re-location, the commissioner shall aim to locate said road on the nearest and best ground.

SEC. 59. That the county road leading from Vienna, in Scott county, through Robion's settlement, to Charlestown, in Clarke county, be and the same is hereby declared a state road.

SEC. 60. That John Trutock of the county of Scott, and John Parr and Alanson Langdon, of the county of Washington, be and are hereby appointed commissioners, to view, mark, and locate a state road, from Salem, in Washington county, via Little York, to Albion, in the county of Scott.

SEC. 61. That Cyrus Taber, of the county of Cass, and John Hoover, of the county of Miami, be, and they are hereby appointed commissioners, to view, mark, and locate a state road between the following points, that is to say, beginning at or near the south end of the Wabash bridge at the town of Logansport, in Cass county, and running thence up the Wabash river adjacent thereto, on the nearest and best, or most advisable route, until it shall intersect the state road leading from Richmond, in Wayne county, to Peru, in Miami county, at the most suitable point on said road opposite to the town of Peru.

SEC. 62. That Garrett Swallan, Oliver H. Hustus, and John Hansel, of the county of Dearborn, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing at the town of Aurora, in Dearborn county, thence westerly to the town of Dillsborough, in said county.

SEC. 63. That Thomas W. Fox, Riley Mane, and John Stone, are hereby appointed commissioners, to view, mark, and locate a route for a state road from Fredonia, in Crawford county, by Gresham Brown's to Jacob Reese's landing, in said county.

SEC. 64. That James Hayne, Martin Stinson, and Merrick H. Waddle, of Posey county, be, and they are hereby appointed commissioners, to view and locate a state road from west Franklin, in Posey county, to Cynthiana, in said county.

SEC. 65. That the county road, commencing at or near the county line west of Windsor, in Randolph county, on the Winchester and Indianapolis state road, and running thence to Smithfield, in Delaware county; thence to Abraham Custers; then [thence] on the west side of the Mississinewa river, until it intersects the Greenville state road, be, and the same is hereby declared to be a state road.

SEC. 66. That Samuel Seright, and Joseph Denman, be and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing at Anderson's mill, in Clinton county, running thence north on or near the section line, until it intersects the Frankfort and Delphi state road, in the neighborhood of Sugar creek, in Carroll county.

SEC. 67. That Jacob Slatter and John Grey, be and they are hereby appointed commissioners, to view, mark, and locate a state road, commencing at the town of Millersburgh, or where the Michigan road crosses Killman's fork of Wild Cat creek at the section line; thence

west on or near said line to the town of Hamilton, in Clinton county; thence west on or near said section line until it intersects the Lafayette state road in Tippecanoe county, near Eaton's mill.

SEC. 68. That James Grey, of Carroll county, be and he is hereby appointed a commissioner, to view and re-locate part of a state road, running from Rossville, Clinton county, to Americus, in Tippecanoe county; commencing said re-location at the place that the said road crosses the north fork of Wild Cat creek, running on the nearest and best ground to the house of John Richardson.

SEC. 69. That Simon Doyle, of Tippecanoe county, David Clark, of Clinton county, and Thomas Wright, of Carroll county, be and they are hereby appointed commissioners, to view, mark, and re-locate so much of the state road leading from Muncietown, in Delaware county, to Lafayette, in the said county of Tippecanoe; and said commissioners in the location of said road shall examine the route via Jefferson, to the point of termination; also, the direct route through Dayton, in Tippecanoe county, to Lafayette; and adopt such route as they believe will best subserve the public convenience.

SEC. 70. That Samuel Grisell, Lewis Richards, and Thomas W. Winborne, be and they are hereby appointed commissioners, to view, mark, and locate a state road, beginning at the north end of the bridge across the Salimonia river, at the town of Camden, in Jay county, thence from the north end of Union street north to the line between sections twenty-two and fifteen, in range twelve east, township twenty-four north; thence the nearest and best route to the town of Huntington, the county seat of Huntington county.

SEC. 71. That William Prilliman, James R. Green, and Isaac Covert be, and they are hereby appointed commissioners to view, mark, and locate a state road, beginning at the angle in the Recovery and Huntington state road, between the residences of Daniel Miller and Aaron Miller, from thence on the nearest and best ground to Bluffton, the county seat of Wells county; thence from the west end of Market street in Bluffton, on the nearest and best ground, to or near the half-way stake on the South side of section twenty-nine, township twenty-seven, north of range eleven east; thence, on the nearest and best ground, to the town of Huntington in Huntington county.

SEC. 72. That Daniel Miller, David Bennett, and Samuel Decker be, and they are hereby appointed commissioners to view, mark, and locate a state road from Bluffton, the county seat of Wells county, to the south line of said county in the direction of Montpelier in Blackford county. Said commissioners, or a majority of them, shall meet at the town of Bluffton, on any day they may agree upon; and, after being qualified as the law directs, proceed to view, mark, and locate said road on the nearest and best ground so as to intersect the Muncietown and Fort Wayne state road, where the said road crosses the county line of Wells county.

SEC. 73. That Aaron M. Collins of Whitley county, and Jesse Vermylia, of Allen county be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing where

the state road leading from Huntington to Goshen in Elkhart county crosses Eel river; thence, on the nearest and best ground to intersect the state road from Fort Wayne to Logansport at the White Raccoon village in Allen county.

SEC. 74. That the forty-first section of an act entitled, "an act to establish certain state roads therein named, and for other purposes," approved, February 17, 1838 be, and the same is hereby repealed.

SEC. 75. That Robert Simonson of the county of Adams, William H. Parmlee, and Isaac Covert of the county of Wells be, and they are hereby appointed commissioners to view, mark, and locate a state road from Decatur, the county seat of Adams county, to Tracy in Huntington county; thence to run west on the township lines between twenty-seven and twenty-eight north, until it comes to the north-east corner of section six, in township twenty-seven, north of range eleven east; thence to leave the township line bearing a little south to intersect the state road leading from Fort Recovery to Huntington on the west line of wells county near the town of Tracy in Huntington county.

SEC. 76. That Peter Studabaker of the county of Adams, and Samuel Hall of the county of Jay be, and they are hereby appointed [commissioners] to view, mark, and locate a state road beginning at some point on the state road in Jay county, near the farm of Daniel Freeman's on the Ohio side; thence to run on the nearest and best ground to Jacob Bucher's in Jay county; thence on the nearest and best ground to or near the house of Rael Risley in Adams county; thence on the best ground to intersect the Recovery and Huntington state road, where the line dividing the land of Henry Howell and John Walker crosses said Huntington road.

SEC. 77. That the county roads running north and south on the east side of the counties of Jay and Adams, to wit: on or near the old Quaker trace, be, and the same are hereby declared state roads.

SEC. 78. That the county road running on the east side of Randolph county and through Spartansburgh be, and the same is hereby declared a state road.

SEC. 79. That so much of the eighty-seventh section of an act relating to state roads, approved, February 6th, 1837, that authorizes the location of a state road from Decatur in Adams county, to Huntington in Huntington county as lies between Murray in Wells county, and the east boundary of said county, is hereby vacated.

SEC. 80. That Samuel Jennison of Miami county be, and he is hereby appointed a commissioner to view, mark, and locate a state road commencing at a point on the Peru and Warsaw state road, due south of the corner section between sections twenty-two and twenty-three, township twenty-eight, north of range four east; thence north on, or as near the section line as is conducive to the public interest; crossing Eel river at or near the corner between sections twenty-two and twenty-three as above; thence north, intersecting a state road leading from Wabash in Wabash county to Rochester in Fulton county, in township twenty-nine north, of range four east.

SEC. 81. That Robert Miller of Miami county be, and he is hereby appointed a commissioner to view, mark, and locate a state road up Eel river on the south-east side, commencing at or near Abraham Reads on the state road leading from Logansport to Fort Wayne; thence up Eel river as near the said river as good ground can be found as is conducive to the public interest, intersecting the Rochester and Fort Wayne state road where the same crosses Eel river.

SEC. 82. That Richard Biddle of Putnam county, and Christian Hartman and Thompson Harmer of the county of Hendricks be, and they are hereby appointed commissioners to view, mark, and locate a state road from the state road leading from Greencastle in Putnam county, to Lebanon in Boon county, by way of North Salem in Hendricks county, to Jamestown in Boon county; said road to commence at the north end of Richard Hackley's farm in Putnam county, and to be run on the nearest and best route so as to intersect a county road at John Smith's in Hendricks county, and to run on said county road by way of North Salem to Jamestown.

SEC. 83. That Joseph Morgan, of Allen county, be, and he is hereby appointed a commissioner, to view, mark, and locate a state road, to commence at the east corner of the west half of section twelve, township thirty, range twelve east; thence due south, one mile and a half; thence on the nearest and best ground to intersect the Piqua road, at or near the house of Mr. Dribbleliss.

SEC. 84. That the boards doing county business, in the counties of Carroll and Grant, are hereby required to allow a reasonable compensation to the commissioners and other persons employed in locating a state road from Delphi, in Carroll county, to Marion, in Grant county, as was provided for in the one hundred and twenty-seventh section of an act entitled, "an act to establish state roads," approved, February 17, 1838, in the same manner as if said road had been run agreeable to the provisions of said act.

SEC. 85. That Ephraim J. Meritt and David Willuts, of Wayne county, and Bela M. Cropper, of Randolph county, are hereby appointed commissioners, to meet at such place as they shall agree upon, on the first Monday in May next, or on some subsequent day, and review and permanently locate that portion of the Cambridge City and Fort Wayne state road, which lies between Hagerstown, in Wayne county, and the line dividing the counties of Wayne and Randolph; and said commissioners in the discharge of their duty, and the county commissioners of Wayne county shall be governed in every respect by the act, approved, February 7, 1838, on that subject.

SEC. 86. That the boards doing county business in the counties of Rush, Hancock, Henry and Delaware, allow to Henry Woods, Simeon Taylor, and Joseph Lewis, a fair per diem allowance for services by them rendered in viewing, marking, and locating a state road through said counties, as authorized by the 45th section of "an act, to establish certain state roads therein named, and for other purposes," approved, February 17, 1838. The allowance to be made by said boards in proportion to the length of said road in each county.

SEC. 87. That the commissioners, above named, shall [meet] at the place of holding courts, in each county, or at some other place, more convenient, to be agreed upon by the proper commissioners, on the first Monday in April next, or as soon thereafter as they may agree upon; and take an oath faithfully to discharge the duties required of them by the provisions of this act, before some person legally authorized to administer the same. The commissioners, if necessary, shall employ surveyors, and chain carriers, for the purpose of locating said roads, who shall receive for their services, such compensation as the boards doing county business shall deem just and reasonable; each commissioner or commissioners, hereby appointed, shall receive one dollar and fifty cents per day, for each day that he shall be necessarily employed in the location of said roads; which shall, together with the pay of the persons employed by them, be paid out of any money in the respective county treasury, not otherwise appropriated.

SEC. 88. And when the commissioner or commissioners shall have discharged the duties required by this act, they shall report the same to the board doing county business in their respective county or counties; who shall order the same to be recorded in the books kept for that purpose, or for recording their proceedings; and, after recording the same as a state road, shall cause the same to be opened and kept in repair, as other roads in such county.

SEC. 89. That all state roads, herein named, shall not exceed sixty feet, nor less than forty in width; and when the commissioner or commissioners shall have made their return to the proper board doing county business in the respective counties, and such road received such recorded width shall remain unchanged.

SEC. 90. That when any state road shall run through one or more counties, each county shall pay or defray the expenses of locating such road, in proportion to the length of said road in the county or counties through which the same shall pass.

This act to take effect and be in force from and after its passage.

CHAPTER CI.

An Act for the relief of John Rodolph Fischli.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, it has been represented to the General Assembly, That John Fischli, late of Clark county, and state of Indiana, died possessed of a considerable real estate; and whereas, the said John Fischli, has left no person in America of blood relations, except a nephew named John Rodolph Fischli, who is a brother's son of the said

John Fischli deceased, who has resided in this state upwards of three years, and has made his declaration that he intends, so soon as the law permits, to become a citizen of the United States; and whereas, doubts have arisen, whether the said John Rodolph Fischli can, under any circumstances, take and hold said real estate; for remedy whereof;

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the circuit court of the county of Clark, to cause a jury of sixteen persons, who shall be freeholders, to appear before the judges of the said circuit court, either at one of the regular terms of said court, or at such other time as the said court or the judges thereof, may appoint, to serve as an inquest, which jury shall be summoned, returned and empanelled by the sheriff of said county, at the court house of said county; and the said inquisition, so taken, shall be by indenture to be made between the sheriff of said county for the state of Indiana, and any twelve or more of the inquest, whereof the counter part shall remain in the possession of the first person, who shall be sworn on said jury, and by him returned into the circuit court of said county, there to be recorded and the other part sealed by the jurors agreeing in their verdict, shall be by the sheriff of the county of Clark, deposited in the clerk's office of the circuit court of the county in which the greater part of the said real estate may be situated; there to be filed and recorded within three months after the inquest may be taken.

SEC. 2. *Be it further enacted,* That the indenture to be made and executed by and between the sheriff of the county of Clark for the state of Indiana, and the jury of inquisition provided for in this act, shall be in the following form, to wit: This indenture of inquisition taken and made on the _____ day of _____ in the year _____ between _____ sheriff of the county of Clark, for the state of Indiana, at _____ in the said county of Clark, and _____ good and law-

ful men, who being duly sworn, well and truly to enquire whether John Fischli, late of said county of Clark, deceased, who departed this life on the sixth day of August, 1838, last past, died seized of, or possessed of any real estate in fee simple, situate in the state aforesaid; and whether the said John Fischli, at the time of his death, had any heirs, to whom, by the laws of the land the said estate would descend. The jurors aforesaid, upon their oath aforesaid, do find that the said John Fischli, late of the county of Clark, and state of Indiana, died on the _____ day of _____ in the year _____ and at the time of his death was seized in his own right, of the following property, to wit: _____ and the

jurors aforesaid, upon their oaths aforesaid, do further present that the said John Fischli left _____ and they find that the said estate, _____ escheated to the state of Indiana, whereupon the said sheriff, on the part of the state of Indiana, and the jury aforesaid, have hereunto set their hands and seals, the day and year first written.

SEC. 3. That if upon inquest found, it shall appear that the said

real estate, or any part thereof has escheated to the state of Indiana; then, and in that case, the said estate so having escheated, and every part thereof, shall vest in the said John R. Fischli, and such of the nephews and nieces of the said John Fischli, deceased, their heirs and assigns as shall within seven years from the passage of this act come to the United States of America, and *bona fide*, make their declaration to become citizens thereof, as by the act of the Congress of the United States is required; and in the mean time the said John R. Fischli shall [have] possession of the said real estate, receive the rents and profits, and pay the taxes thereon; and may in his own name, sue for any trespass committed on said property.

SEC. 4. It shall be the duty of the said John R. Fischli to cause notice of the provisions of this act to be published in the Government of Switzerland, where it is represented the relatives of said deceased reside, within two years from the passage of this act.

SEC. 5. *Be it further enacted*, That the said court shall appoint an attorney to attend on the part of the state, and prosecute said writ of inquisition, and shall allow such person for his compensation such sum as said court may think right, which, and all cost thereon shall be paid to the said John Rodolph Fischli.

This act to take effect from its passage.

CHAPTER CII.

An Act to change the name of certain persons therein named, and for other purposes.

[APPROVED, JANUARY 7, 1839.]

WHEREAS, one Benjamin Inman, late of Greene county, state of Indiana, deceased, was during his life lawfully married to one Dorothy Plummer, by whom he had five children, to wit: William Inman, Jane Inman, Richard Inman, Thomas Inman, and Benjamin Inman; and whereas, the said Dorothy, since the death of her said husband, has intermarried with one John Owens, of Monroe county, in said state; and whereas, the said John Owens is desirous of adopting the said children as his own, and changing their names, so that they may inherit his property, as though they were his own children; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the names of William Inman, Jane Inman, Richard Inman, Thomas Inman, and Benjamin Inman, above stated, be, and the same are hereby changed, to wit: the name of William Inman to William Inman Owens; the name of Jane Inman to Jane Inman Owens; the name of Richard Inman to Richard Inman Owens; the name of Thomas

Inman to Thomas Inman Owens; the name of Benjamin Inman to Benjamin Inman Owens; by which they shall hereafter respectively be known.

SEC. 2. *Be it further enacted*, That the said John Owens, on recording in the recorder's office, in the county of Monroe, in said state, his assent to this act, and to the adoption of said children, the said children and the said Owens shall sustain the relation of parent and child; and the said Owens shall be entitled to exercise the authority of a parent over said children, and the said children and their heirs shall, in case of the death of said Owens, each inherit the property of said Owens; *Provided, however*, that nothing in this act shall be so construed as to prevent the children, if any there should be, that may hereafter be born unto said John Owens by his present wife, or by any other his lawful wife, from inheriting, equally with the above named children, the property of him the said John Owens, whether the same be real, personal, or mixed, in the same manner, and to the same extent, as though they were each the legitimate children of the said Owens; *And provided also*, That the provisions of this act shall not be binding on any one of said minor children, after he, or she, (as the case may be,) shall have arrived to the age of twenty-one years, if said minors, or either of them, for himself, or herself, shall make known his or her dissent in writing, to said act, within one year next after his or her attaining to the age of twenty-one years; said dissent in writing to be entered of record in the recorder's office of Monroe county, in the state of Indiana, or in the recorder's office of the county and state within which said minor or minors may respectively reside, at the time of filing said dissent; *Provided, further*, That all of said minors who do not enter their dissent to the provision of this act within the time aforesaid, and in the manner aforesaid, shall be considered as accepting of the terms thereof, and shall be entitled to all the advantages and privileges therein extended to them; *Provided, further*, That if the said John Owens shall depart this life previous to the time at which all or any of said minors shall have arrived at the age of twenty-one years, then, and in that event, said minor children shall not be deprived of the benefits of this act, but the property to which any one or more of them would be entitled to receive, shall remain in the hands of the administrator or executor of the said John Owens, until said minor or minors shall have arrived at the age of twenty-one years, and for one year next thereafter; and if any of said minor children shall fail or refuse to accept of the provisions within the time and manner aforesaid, then the share or shares to which said minor or minors would have been entitled, shall descend to such of said minor children as may have accepted of the provisions of this act, and to such other legal heirs (if any,) as the said John Owens may have at the time of his demise; *And provided further*, That nothing in this act shall be so construed as to interfere with or in any manner affect the rights which any or all of said minors may have by virtue of their paternal names.

This act to be in force from and after its passage.

CHAPTER CIII.

An Act to provide for a special session of the Hendricks Circuit Court.

[APPROVED, DECEMBER 13, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the judges of the Hendricks circuit court be, and they are hereby authorized, to hold a special term of said court, to commence on the fourth Monday of December, eighteen hundred and thirty-eight, for the trial of John M'Lain, who now stands indicted for murder.

SEC. 2. It shall be the duty of the clerk of the Hendricks circuit court, upon the reception of this act, to give notice forthwith to the accused, and the judge and prosecuting attorney of said circuit court, and also to issue a venire for a petit jury, commanding the sheriff of said county of Hendricks to summon the jury selected by the board doing county business, for the next term of said court; and the said clerk shall issue subpoenas for witnesses, both in behalf of the state and the accused; and such special session shall be governed in all respects by the laws relative to the practice in the circuit courts, and may adjourn from day to day, until said trial shall be ended; and all the officers concerned in, or otherwise connected with said court, shall be governed by the laws regulating the duties of said officers, during the session of circuit courts.

This act to be in force and take effect from and after its passage.

CHAPTER CIV.

An Act declaring a certain name a mis-print.

[APPROVED, DECEMBER 20, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of James Satter, in the 113th section of the act, entitled, "an act relating to state roads," approved February 6th, 1837, is hereby declared a mis-print, and that the name of James Satter was intended to be James Latta.

This act to be in force from and after its passage.

CHAPTER CV.

An Act to locate a state road in Pike county.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Crow and James Hilman of Pike county, and David Johnson, of Gibson county, be, and they are hereby appointed commissioners to view, mark, and locate a state road from the mouth of Harvey's creek; thence crossing the Princeton road at or near Harvey's creek meeting house; thence the nearest and best way to Richard M. Kirk's mill on Patoka; thence the nearest and best way on the direction of Boonville, until it intersects the state road leading from Booneville to Princeton.

SEC. 2. Said commissioners shall meet on or before the first day of June next, or as soon thereafter as possible, and proceed to [the] discharge of their duty, after taking an oath faithfully to perform the duties imposed by this act.

SEC. 3. It shall be the duty of the county board of Pike county to make said commissioners such allowance as they may deem proper for their services.

This act to take effect and be in force from and after its passage.

CHAPTER CVI.

An Act for the benefit of Catharine Falkner.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the right, title, and interest, which the state of Indiana has in, and to the personal or real estate of Patrick Donohue, deceased, who departed this life on or about the 6th day of February, 1838, in Switzerland county, intestate, and without any known heir or heirs, is hereby relinquished to Catharine Falkner, to have and to hold, to her and to her heirs forever.

SEC. 2. The administrator of the estate of the said Patrick Donohue, deceased, after settling all legal claims of the creditors of said estate shall pay over the balance of said estate which may remain in his hands, to the said Catharine Falkner. The administrator aforesaid, on paying over to said Catharine Falkner, said estate, shall take her receipt therefor; which receipt shall be a sufficient voucher [on] his final settlement of said estate with the probate court of said Switzerland county.

This act to take effect and be in force from and after its passage.

CHAPTER CVII.

An Act for the relief of Aaron Rawlings, collector of Scott county, for the years 1834-35.

[APPROVED, JANUARY 23, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Aaron Rawlings, collector of the state and county revenue, in the county of Scott, for the years 1834 and 35, be, and he is hereby given further time until the first day of August, 1840, to receive and collect and receipt therefor, all arrearages that may be due and unpaid to him as such collector as fully and completely as though his term of office had not expired.

SEC. 2. That all and singular the privileges in the first section of this act granted to Aaron Rawlings, be, and the same are hereby granted to Willis L. Traylor, collector of the state and county revenue for the year 1836, of said county.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER CVIII.

An Act to authorize the election of a Justice of the Peace and a Constable, in the town of Philomath, in the county of Union.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Union is hereby authorized and required at their first session after the taking effect of this act, or so soon thereafter as practicable, order an election of an additional justice of the peace and a constable, to reside in the town of Philomath, in said county, to be elected by the qualified voters of the township in which said town is situated; which elections of said officers shall be conducted in all things according to the laws that now are, or that may hereafter be in force regulating the elections of justices of the peace and constables.

SEC. 2. That if the said justice of the peace shall not hold his office in said town or shall remove therefrom, his office shall thereby become vacated; and if the said constable shall fail to reside in said town he shall forfeit his office.

SEC. 3. All vacancies that may happen in the offices herein provi-

ded for and authorized, or in either of them, it shall be lawful to fill said vacancy or vacancies, as in other cases of vacancies of the office of justices of the peace and constables in this state.
This act to take effect and be in force from and after its passage.

CHAPTER CIX.

An Act locating a state road in the county of Dearborn.

[APPROVED, JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Hugh M'Clure, Z. A. Bonham, and S. Hallowell, of Dearborn county, be, and they are hereby appointed commissioners to re-locate a state road as hereinafter provided.

SEC. 2. Said commissioners appointed in the first section of this act, or a majority of them, shall meet on the first Saturday of March next, and proceed to re-locate said road, commencing at the elbow of the old road, north of the town of Harrison, on the land of George Arnold, at the state line; thence north-west, or nearly so, to a large elm tree near the house of George Arnold; thence to Cooper's run where the old road crosses the same; thence on the same ground on which the old road ran, to an old blacksmith shop on the land belonging to the heirs of J. Case, deceased, on the present road, and said commissioners are authorized to make such other changes or alterations as they may deem necessary, to the line dividing the counties of Franklin and Dearborn.

SEC. 3. The said commissioners in the discharge of the duties by this act proposed, shall in all things be governed by the provisions of an act entitled, "an act defining the duties of commissioners, appointed to locate state roads, and for other purposes," approved February 1st, 1834.

SEC. 4. So soon as said change is made as above provided for, and a report returned to the clerk, it shall be the duty of the overseers of roads, through whose districts the said change may pass, to open and work the same, and so soon as said road is opened and fit for use, the old road so far as superseded by the change, shall be vacated.

This act to take effect and be in force from and after its passage and publication in the Indiana Democrat.

CHAPTER CX.

An Act vacating the Albany and Burlington state road in Delaware county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the one hundred and eighth section of an act entitled, "an act to establish certain state roads therein named, and for other purposes," approved February 17, 1838, be, and the same is hereby repealed, and said state road in said section named, is hereby vacated.
This act to be in force from and after its passage.

CHAPTER CXI.

An Act to legalize the proceedings of the Board doing county business in Jasper county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the proceedings of the board doing county business in Jasper county is hereby legalized, and hereafter shall be considered as legal as though they had not held more sessions than the law authorized them to hold, in the act organizing said county.
This act to be in force from and after its passage.

CHAPTER CXII.

An Act authorizing the probate court of Monroe county to sell certain real estate therein named, and for other purposes.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the probate court of the county of Monroe is hereby authorized to order and decree a sale of forty feet in front, running back one hundred and thirty-two feet off of the east side of lot number one hundred and twenty-seven (127) in the town of Bloomington, in said county of Monroe, the property of the heirs and legal representatives of Hen-

ry Batterton, deceased, in the same manner that the sales of infants' property are made, on the application of a guardian.

SEC. 2. That said probate court shall set aside to the widow of said deceased, as a life estate therein, the one half of the money arising from the sale of said ground in the first section named, and shall likewise cause the balance of the said money to be paid over to the said widow of said deceased, upon her giving bond and security that the balance of the money aforesaid, (being the one half) shall be paid over at her death to the persons entitled by law to receive the same, deducting from the share or shares of the minor children their maintenance: *Provided, however,* that the said widow of said decedent shall not be bound to account for any interest on the one half of the money aforesaid, for the payment of which she may have to give bond and security; *And provided further,* that the said widow of the said deceased, shall not be bound to account for the principal or interest of the one half of the money aforesaid, which is set aside to her as an equivalent for her life estate in said property so authorized to be sold.

This act to take effect and be in fore from and after its passage.

CHAPTER CXIII.

An Act to provide for the election of a Justice of the Peace, in the town of Moscow, in the county of Rush.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business for Rush county, be, and they are hereby authorized to order one justice of the peace to be elected in the town of Moscow, in said county by the qualified voters of the township of Orange, in addition to the number of the justices now appointed to said township, in the same manner they might have done, or could do, if said town was incorporated, any law to the contrary in force notwithstanding.

This act to be in force from and after it passage.

CHAPTER CXIV.

An Act to authorize the Board of Justices of Scott county to sell a part of the public square in the town of Lexington.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of justices of the county of Scott be, and they are hereby authorized at any regular term of said board in the year 1839 or 1840, to order a sale of such part of the public square in the town of Lexington as to them may seem advisable to be laid off and set apart in such manner as said board may direct; which said order shall be entered on the record book of said board, together with the metes and bounds of such parts of said square as may be ordered to be sold.

SEC. 2. The county agent of said county shall sell such part of said public square in such manner and upon such conditions as the said board may order, and the said agent shall have full power and competent authority to sell and convey all the right of said county of Scott in and to the parts of said square so sold, and for that purpose shall make a deed to the purchaser or purchasers, under the direction and for and on behalf of said county, and the said board of justices shall appropriate the proceeds of such sale for the benefit of said county in such manner as they may deem proper: *Provided, however,* that such sale shall not take place until there shall be filed in the clerk's office of said county the consent of a majority of the citizens who own lots directly across the street from such part of said square so ordered to be sold: *And provided further,* that the person so owning any lot across the street, shall have the refusal at the same price of ground in front of him.

This act to be in force from and after its passage.

CHAPTER CXV.

An Act for the relief of Abner McCarty and other purchasers of Michigan Road Lands.

[APPROVED, JANUARY 28, 1839.]

WHEREAS, Abner McCarty of the county of Franklin, on the 31st day of August, A. D. 1835, entered the following lands at the office of the commissioner of the Michigan road lands, to wit: the N. E. quarter of section 11, township 28, range 5; also the N. E. quarter of section 12, township 28, of range 5, situated in the county of Wabash, and whereas the said tracts of land were assessed for taxation for the year 1835, contrary to law, and the taxes not being paid thereon, the

same were returned to the school commissioner of said county of Wabash, as delinquent; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the aforesaid tracts of land be, and they are hereby released from the said tax for the year 1835, and all forfeitures, penalty, interest and cost thereon; and that the said school commissioner of Wabash county, cease all proceedings in the premises as though the said lands had never been returned to his office.

SEC. 2. That the provisions of the foregoing section of this act be, and the same are hereby extended, so as to exempt from taxation, all Michigan road lands which have been entered after the return of the assessment roll by the regular assessor for the same year.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER CXVI.

An Act establishing a State Road therein named.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Stephen Andrews of the county of Ripley, John E. Sharp of the county of Decatur, and Jacob Rhoads of the county of Bartholomew, shall after being duly qualified, proceed to view, survey, mark and locate a state road from Versailles in Ripley county, via Auter Village, and Seth Griggs in said county; thence on the most direct and practicable route to West Port in the county of Decatur; thence to Holloway's mill on the state road from Madison in Jefferson county to Columbus in Bartholomew county.

SEC. 2. The aforesaid commissioners shall take to their assistance a surveyor, and such other assistance as may be necessary for the purpose of such location, agreeing with them for reasonable compensation, which compensation and a reasonable allowance to the locating commissioners, shall be made by the different boards doing county business in the counties through which the road passes in proportion to the length of the road in each county.

SEC. 3. When such location is made, which may be done at any time after the passage of this act the said commissioners may agree upon, and a regular record made of the field notes and profile of said road in the several counties through which it passes, it shall be the duty of the boards of commissioners to cause it to be opened and kept in repair as other state roads are required to be opened and kept in repair.

This act to be in force from and after its passage.

CHAPTER CXVII.

An Act to locate a State Road therein named.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jacob Stage and William Caldwell of Noble county, and John McBride of Elkhart county be, and they are hereby appointed commissioners to view, mark, and locate a state road from the town of Augusta in Noble county, running in a north-west direction to William Caldwells; thence to the north-east corner of section twenty-four, in township thirty-five north, of range eight east; thence with said section line dividing sections twenty-four and thirteen, twenty-three and fourteen; thence on the nearest and best ground to the east line of section six, in township thirty-five, north of range seven east, striking said line twenty-two rods north of the south-east corner of said section six; thence to the junction of Main, Franklin, and Jackson streets in the town of Benton in Elkhart county.

SEC. 2. The commissioners after being duly qualified shall proceed on the first Monday of April next, or some subsequent day, to view, mark, and locate said road agreeably to the law regulating roads and highways.

This act to take effect and be in force from and after its publication in the Indiana Journal and Democrat.

CHAPTER CXVIII.

An Act relative to the county boundary between the counties of Warrick and Spencer.

[APPROVED FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for the boards doing county business in the counties of Warrick and Spencer, at their May or September term, 1839, to determine upon the boundary line between the counties of Warrick and Spencer; to alter, change or amend the same as they may deem proper and can agree upon; which alteration of the boundary aforesaid, should the board aforesaid agree thereon, shall be spread upon the records of the courts of both counties, and upon the boards agreeing upon any, the same shall thereafter be and remain the boundary line between the said counties.

SEC. 2. This act to be in force from and after its publication in the Rockport Register.

CHAPTER CXIX.

An Act to change the name of Isaac Smith, brother of John L. Smith, deceased, late of Crawford county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of Isaac Smith of the county of Crawford, be and the same is hereby changed to that of Isaac D. Smith; and by such name the said Smith shall be recognized and known.

SEC. 2. This act shall in no wise be so construed as to affect any contract or contracts heretofore entered into by the said Isaac Smith, whose name is by this act changed, nor so as to affect any property, real, personal, or mixed, which may be given, granted, or released, to him in any manner whatsoever.

SEC. 3. This act to be in force from and after its passage.

CHAPTER CXX.

An Act to authorize Louisa Jane Cossatt to make conveyance of real estate.

[APPROVED, JANUARY 28, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Louisa Jane Cossatt, wife of Jacob D. Cossatt, who is a minor, under the age of twenty-one years, be and she is hereby authorized and enabled, to relinquish her right of dower in any property owned by her husband; or to convey any real property, the title to which is vested in her and her husband; which conveyance or relinquishment shall be made in the same manner, and have the same effect, as though she were over the age of twenty-one years.

This act to take effect and be in force from and after its passage.

CHAPTER LXXI.

An Act relative to a side cut canal opposite the town of Clinton.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acting commissioner on the Wabash canal, cause a survey and estimate to be made from the said canal, at a point opposite Clin-

ton, to the Wabash river, on the most practicable route for a side-cut canal, with locks between said points; and that in making said survey and estimate, he also include the cost of having the tow-path wide enough for a road to said place, and also the amount of water power secured to the state, by the completion of said work.

SEC. 2. That said survey and estimate be made early in the ensuing spring, and the report thereof forwarded to the board of internal improvement; *Provided, however,* the cost of said survey shall not exceed one hundred dollars.

This act to take effect and be in force from and after its passage.

CHAPTER CXXII.

An Act to re-locate a State Road therein named.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Abraham Miller, Esq., of the county of Hancock, be and he is hereby appointed a commissioner, whose duty it shall be to review so much of the state road leading from Portland, in Hancock county, to Andersontown, in Madison county, as lies in the said county of Hancock; and, also, to view and examine the county road from the National road, near the said Portland, which runs in the same direction; and establish the said state road on either, or any part of either of the said roads, or other ground, as to him may seem just and reasonable. All acts and parts of acts, coming in the purview of this act, be and the same are hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER CXXIII.

An Act declaring main Flat Rock a public highway, and for other purposes.

[APPROVED, FEBRUARY 6, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of main Flat Rock as lies in the county of Rush, be and the same is hereby declared a public highway.

SEC. 2. It shall be the duty of the board doing county business in the county of Rush, at their May session, to lay off so much of said creek, as in their opinion the public good may require, into districts extending one mile from said creek on each side, and to assign to such districts certain boundaries; and on petition by a majority of the freeholders of any district, to appoint one suitable person as supervisor in said district so laid off, to be denominated supervisor of such stream, who shall serve for and during the term of one year from and after their appointment; whose duty it shall be to superintend all the labor appropriated to, and by this act directed to be laid out on said creek; *Provided, however,* that it shall be lawful for any township to elect the supervisors of said creek at the April election, on the same principles that other township officers are elected. And any supervisor so elected shall have the same powers and [be] liable to the same penalties, which supervisors appointed under the provisions of this act are liable to.

SEC. 3. That the freeholders liable to work on public roads and highways within said districts, shall from and after the taking effect of this act, be required to perform two days labor in each and every year, under the directions of the supervisor appointed or elected by virtue of this act in whose districts they may respectively reside, upon said creek, for the purpose of clearing the drift out of said creek.

SEC. 4. That it shall be the duty of every supervisor appointed by this act, to call on all persons living within the limits of their respective districts, to perform the work required by this act; and if any person shall fail or refuse to perform such labor, he having received three days previous notice thereof from the proper supervisor in writing or otherwise, shall be liable to forfeit and pay the sum of seventy-five cents for each day he may so neglect or refuse to labor, to be recovered before any justice of the peace having jurisdiction thereof, in the same manner and subject to the same regulations as are now prescribed for the collection of fines for failing or refusing to work on roads and highways; and when collected, shall be appropriated by said supervisors to improving said creek.

SEC. 5. Any supervisor failing to discharge any of the duties enjoined on him by virtue of this act, shall for every such offence forfeit and pay any sum not exceeding fifty dollars, to be recovered by presentment or indictment in any court having competent jurisdiction thereof.

SEC. 6. This act to be in force from and after its passage.

CHAPTER CXXIV.

An Act relative to a state road in the counties of Warrick and Spencer.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Henry Hart, of the county of Warrick, and Robert Oskins, of the county of Spencer, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at or near John Phillips, Esq. of Warrick, and thence on the best and nearest route, via Jonesborough, to Hoffman's mill in the county of Spencer.

SEC. 2. The said commissioners shall upon the first Monday in April next, or upon some subsequent day, meet at the house of John Phillips, Esq., and after having taken the necessary oath, shall proceed to discharge the duties imposed upon them by this act; and the said commissioners shall be governed by the provisions of the act, "defining the duties of commissioners appointed to locate state roads," approved, February 1, 1835.

SEC. 3. That all that part of the county road in the county of Warrick, known as the Corydon road, that lies between that point on said road where the Boonville and Jasper state road leaves the same, at or near William Gentry's, Sr. and at a point at or near John Phillips, where the state road contemplated by this act commences, be, and the same is hereby declared a state road.

CHAPTER CXXV.

An Act correcting a mistake in the specific appropriation act.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the allowance made to Douglass & Noel in the act entitled, an act making specific appropriations for the year 1839, shall be fifty dollars, instead of two hundred and twenty dollars, inserted by mistake in said act. This act to take effect and be in force from and after its passage.

CHAPTER CXXVI.

An Act to locate a state road from the east line of Whitley county, to Fort Wayne.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That David Bender, of the county of Allen, be, and he is hereby appointed a commissioner, to view, mark, and locate a state road, from the court house in Allen county, passing out through the Main street, of the town of Fort Wayne, to the east end thereof, thence on the nearest and best route to intersect the Leesburgh state road at the east line of Whitley county.

SEC. 2. The commissioners above named shall attend at the clerk's office in Allen county, on the first Monday in February next, or as soon thereafter, as he conveniently can, and after taking an oath according to law, for the faithful discharge of the duties required of him by this act, said commissioner to be governed by the (171) one hundred and seventy first section of an act entitled "an act to locate certain state roads therein named, and for other purposes," approved, February 17, 1838.

This act to be in force from and after its publication in the Fort Wayne Sentinel.

CHAPTER CXXVII.

An Act for the relief of the owners of certain forfeited lands and town lots in Clinton county.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all persons who have heretofore had lands and town lots forfeited for the non payment of taxes, in the counties of Clinton, Tippecanoe, Boone, Montgomery, and Warren, which have been decreed by the circuit court of said counties, on account of said forfeiture, to vest in the state of Indiana, and which have been advertised for sale, by the school commissioners of said counties, agreeably to the provisions of the law in such case made and provided, may at any time prior to the day of sale, of such lands or town lots, have the privilege of redeeming the same, by paying over to the school commissioner of said counties, the full amount of all taxes, interest, and costs upon the same, which may have accrued up to that time.

SEC. 2. That it shall be the duty of the clerks of the courts of

said counties, upon the presentation of a certificate from the school commissioner aforesaid, of the payment of all demands against any town lots or tracts of land as aforesaid, to cause an entry of record to be made of said certificate: for which service he shall receive, and be entitled to the sum of twelve and a half cents from the holder thereof; and when so entered, the title to such lands or town lots shall vest in the person having a legal title to the same, as fully as if they had never been forfeited.

SEC. 3. *Be it further enacted*, That the School commissioner of Marion county be, and he is hereby directed to permit Adam Wright of said county to redeem the south half of the east half of the north west quarter of section, number sixteen, township number seventeen north, of range two east, (entered on the 12th of September, 1831, by Robert Parish, and by him transferred to Daniel Roberts, and by Roberts to Adam Wright) upon said Adam Wright paying to the school commissioner aforesaid, all interest, cost, and tax due thereon; the said piece of land as above described, having become forfeited for the non-payment of interest, by mistake of the School commissioner, when referring to his book of entry; therefore said commissioner shall re-instate said Wright upon his paying all arrearages as aforesaid.

SEC. 4. That the school commissioner of the county of Sullivan, be, and he is hereby directed to release the south east quarter of section fourteen, in township nine north, of range ten, in the county of Sullivan, returned to his office for the non-payment of taxes to the heirs of Samuel Lee, deceased: *Provided*, the said heirs shall pay or cause to be paid the full amount of the taxes due thereon, together with the per centage and cost, accruing upon the forfeiture thereof.

This act to take effect and be in force from and after its passage, and shall be published in the Delphi Oracle; the cost of which publication to be paid by the persons availing themselves of the provisions herein contained.

CHAPTER CXXVIII.

An Act to repeal a certain act in Dearborn county, therein named.

[APPROVED, FEBRUARY 5, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That all acts allowing the county commissioners of Dearborn county, to levy an additional tax on said county, for the purpose of building bridges or any other purpose other than those named in the revenue laws of this state be, and the same are hereby repealed.

This act to take effect and be in force from and after its publication in the Dearborn Democrat.

CHAPTER CXXIX.

An Act attaching the county of Newton to the county of White, and for other purposes.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the county of Newton shall be attached to the county of White for judicial and representative purposes: *Provided, however*, that the counties of Jasper and Newton are not consolidated by the commissioners appointed to locate the seat of justice for Jasper county.

SEC. 2. That the assessors of White county shall postpone the assessing of Newton county until after the location of the seat of justice of Jasper county, and if the counties of Newton and Jasper are consolidated, then the assessor of Jasper county shall proceed to assess, and the collector to collect the revenue of said county, as in other cases.

SEC. 3. So much of the act dividing the state into judicial circuits, approved, January 28, 1839, and of the act regulating the first and sixth judicial circuits as attaches the county of Newton to the county of Jasper is hereby repealed.

This act to be in force from and after its passage.

CHAPTER CXXX.

An Act to authorize the sale of the county Seminary in the county of Union.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, it hath been represented to the General Assembly of the state of Indiana, by the petition of sundry citizens of said county of Union, setting forth that the county seminary, in said county is in such a state of decay as renders it inexpedient to repair the same; and that the location of the same is such, that the citizens or a majority thereof, are dissatisfied therewith; now, for the purpose of enabling the district trustees of said county of Union, to re-locate and rebuild said seminary,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the district seminary trustees, in the county of Union, and state of Indiana, shall have full power, and they are hereby authorized to sell and convey to the purchasers thereof, the seminary with the grounds attached thereto, now belonging to the said county of Union, at such time, and on such terms, as they, in their judgment, may think best calculated to promote the interest of said institution.

SEC. 2. That, after having said seminary, with the lands attached thereto, appraised by three disinterested freeholders, citizens of said county of Union, and the minimum price set thereon, said seminary trustees, after giving notice by publication in a newspaper, such one as is most circulated in said county, and by a written or printed notice posted up in some public place in each township in said county, for at least thirty days previous to the day of sale, shall proceed to sell the same on such terms, as they may think best calculated for the interest of the funds of said seminary, to the highest and best bidders: *Provided*, said property shall not be sold, unless it shall bring at least the minimum price, as set by the appraisers, above specified; but the sale may be adjourned from time to time until it will bring such minimum price.

SEC. 3. After having made such sale, said trustees shall place the proceeds thereof, with the common seminary funds of said county; and shall proceed, as soon as practicable, to re-locate said seminary in some suitable place in the town of Liberty, in said county of Union, where a situation can be obtained on reasonable terms, and shall proceed to rebuild a seminary for the use of said county, as soon as may by them be thought expedient; and shall in such location and building be governed in all respects, by the laws regulating county seminaries in this state: *Provided, however*, said trustees shall be at liberty to receive any voluntary donations made by any citizens of the county of Union, or elsewhere, either in lands, moneys, or any material for the use of said seminary.

This act to be in force from and after its passage.

CHAPTER CXXXI.

An Act for the relief of Franklin Winchill.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, it is certified that Franklin Winchill worked eight days, fitting up the State House and attending the sitting of members at the commencement of the present session: therefore,

Be it enacted by the General Assembly of the State of Indiana, That Franklin Winchill be allowed the sum of fourteen dollars out of any money in the treasury not otherwise appropriated.

This act to be in force from and after its passage.

CHAPTER CXXXII.

An Act authorizing the appointing of Assessors in the county of Orange.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be the duty of the board doing county business in the county of Orange at their March term, to appoint one or more assessors for said county.

SEC. 2. The assessor or assessors, to be appointed by the provisions of this act, shall perform the same duties and be subject to the same penalties and liabilities, as they would have been had such appointment been made at the January term of said board.

This act to take effect and be in force from and after its publication in the Indiana Journal.

CHAPTER CXXXIII.

An Act for the relief and benefit of Solomon Vanada, of Warrick county.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the mill dam heretofore erected by Solomon Vanada, of the county of Warrick, in and upon a certain stream or creek commonly called Cypress creek, be and the same is hereby established as fully and completely as if the same had been established by order of any court having competent jurisdiction, under an act, entitled, "an act allowing and regulating the writ of *ad quod damnum*," approved, December 20th, 1823.

SEC. 2. That the said Solomon Vanada is hereby authorized and empowered to raise the said mill dam any additional height he may choose, so that the whole height from the foundation, shall not exceed ten feet; *Provided*, That he, the said Solomon Vanada, shall pay or cause to be paid to any person or persons, or body corporate, all such damages as he, she, or they may sustain, in consequence of the erection of the said mill dam; and upon the payment of the damages so assessed, and costs of said suit, it shall be a perpetual bar.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER LXXXIV.

An Act for the election of an additional Justice of the Peace for the town of Russelsville, in Putnam county.

[APPROVED, DECEMBER 18, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the qualified voters of Russel township, in Putnam county, be and they are hereby authorized to meet at some suitable place in the town of Russelsville, in the county of Putnam, on the first day of January, A. D. 1839, for the purpose of electing a justice of the peace, who shall keep his office and reside in said town of Russelsville, and shall do and perform all acts and things that other justices of the peace are now, by the laws of the state, authorized to do and perform.

SEC. 2. That said election for said justice of the peace, shall be conducted according to the law regulating general elections in the state.

This act to be in force from and after its passage.

CHAPTER CXXXV.

An Act providing for the distribution of the three per cent. fund of Dearborn county:

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That of the three per cent. fund now due to, and unappropriated in Dearborn county, the sum of five hundred and sixty-five dollars is hereby appropriated, as follows, to wit: on a road leading from Aurora up south Hogan creek, by John Columbier's, Phineas L. King's and Samuel Ewan's, to where it intersects the Aurora and Napoleon state road at John Dashiell's house, the sum of one hundred and thirteen dollars is hereby appropriated, and John Columbier, Esq. and Samuel Ewan, are hereby appointed to expend the same; on the Lawrenceburgh and Madison state road, between Wilmington and Hartford, the sum of one hundred and thirteen dollars is hereby appropriated, and George Nichols is hereby appointed to expend the same; from the elbow of the road, north of Harrison, where a change, authorized by the present Legislature, takes place, to where said change or new way intersects the old road, the sum of one hundred and thirteen dollars is hereby appropriated, and Elisha Metler and George Arnold are hereby appointed to expend the same; on a road leading from the bridge across Hogan creek, on the road between Wilmington and Aurora,

and running from thence by W. V. Cheek's, Milburn's mills and Daniel Hathaway's, to north Hogan school house, said road hereafter to be laid out, the sum of one hundred and thirteen dollars is hereby appropriated, and Elisha Chisman and Thomas H. Milburn, are hereby appointed to expend the same; on a road hereafter to be laid out from Dillsborough to Aurora, the sum of one hundred and thirteen dollars is hereby appropriated, and Philip Wymond is hereby appointed to expend the same.

SEC. 2. The agent of the three per cent. fund is hereby required, to pay that portion of the above named five hundred and sixty-five dollars, to be expended by John Columbier and Samuel Ewan, amounting to one hundred and thirteen dollars, and also the sum to be expended by Elias Chisman and Thomas H. Milburn, to Ebenezer Dumont; the sum to be expended by Elisha Mettler and George Arnold, amounting to one hundred and thirteen dollars, to George Arnold; the sum to be expended by George Nichols, amounting to one hundred and thirteen dollars, to William Conaway; the sum to be expended by Philip Wymond, amounting to one hundred and thirteen dollars, to Jacob W. Eggleston.

SEC. 3. So soon as the above named persons above appointed to expend money as therein provided, shall produce to the persons in the last section authorized to draw the same, a certificate from the clerk of Dearborn county, that he or they have filed a bond payable to the state of Indiana, in a sum amounting to the sum he or they are authorized to expend, conditioned for the faithful expenditure of the same, it shall be the duty of the above named persons who are hereby authorized to draw the same from the agent of the three per cent. fund, to pay over the same.

This act to take effect and be in force from and after its passage.

CHAPTER CXXXVI.

An Act to establish a state road in the county of Morgan.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the county road leading from Martinsville, in the county of Morgan, to Franklin, in Johnson county, is hereby declared a state road.

This act to take effect and be in force from and after its passage.

CHAPTER CXXXVII.

An Act to re-locate a part of the state road leading from Indianapolis, in the county of Marion, to where it intersects the state road leading from Strawtown, in the county of Hamilton, to Miamisport in the county of Miami, by the way of Shieldsville and Knightstown, [Kingston] in the county of Hamilton.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Zenas Beckwith of the county of Hamilton, be appointed a commissioner to re-locate so much of the above named road as lies between where said road crosses the Newcastle and Lafayette state road by way of the town of Shieldsville and the town of Kingston, in Hamilton county, to, or near where said road intersects the Strawtown and Miamisport state road. The commissioners aforesaid, shall, on the first day of March next, or some subsequent day, after taking an oath faithfully and impartially to discharge the duties assigned him by this act, proceed to view, mark, and re-locate that part of the road aforesaid, taking with him a surveyor, chain carrier, and marker; a plat of which location he shall file in the clerk's office of the county of Hamilton, within twenty days after the location is made.

SEC. 2. It shall be the duty of the board doing county business in the county of Hamilton, at their next meeting after the location is made, to cause the same to be opened any width not exceeding forty feet, made agreeably to an act entitled, "an act for opening and repairing public roads and highways.

SEC. 3. That the commissioners doing county business shall allow said commissioner and all hands employed by him a reasonable compensation for their services.

This act to be in force and take effect from and after its passage.

CHAPTER CXXXVIII.

An Act for the improvement of Little Racoon creek, in Parke county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of improving the navigation of Little Racoon creek, in Parke county, the board doing county business in and for said county, is hereby invested with full power to lay off districts and appoint supervisors to cause such parts of said creek to be improved as said board may think proper.

SEC. 2. It shall be the duty of any person liable to work on public roads within any district laid off under the provisions of this act, after

being notified in the same manner prescribed for notifying persons to work on roads, to perform such an amount of labor as may by said supervisors be required of him: *Provided*, that no person shall be required to perform a greater amount of labor in any one year than half the amount required of him on roads.

This act to take effect and be in force from and after its passage.

CHAPTER CXXXIX.

An Act relating to the Trustees of the town of Paris, in Jennings county.

[APPROVED, FEBRUARY 15, 1839.]

WHEREAS, it is represented to this general assembly that the clerk of the circuit court of Jennings county omitted or failed to record the certificate of the election of the trustees of said town as directed by the fifth section of an act, approved February 10, 1831; *And whereas*, doubts exist as to the validity of the acts of the trustees of said town; for remedy whereof,

Be it enacted by the General Assembly of the State of Indiana, That all the acts and doings of the trustees of said town of Paris are hereby ratified and confirmed as fully as if the certificate of election of said trustees had been recorded within the time prescribed by law.

This act to take effect and be in force from and after its passage.

CHAPTER CXL.

An Act to legalize the acts of Wesley Parke, and for other purposes.

[APPROVED, FEBRUARY 11, 1839.]

WHEREAS, by the provisions of the fourteenth section of an act entitled "an act relating to state roads," approved February 6, 1837, Henry Hostetter and Wesley Parke were appointed commissioners to view, mark, and locate a state road from Goshen, in Elkhart county, by way of the centre of Noble county, and Auburn in De Kalb county, to the eastern line of this state, to cross the St. Joseph river at Washington Robinson's; *And whereas*, the said Henry Hostetter failed to perform said duty, and the said Wesley Parke having taken to his aid the necessary surveyor, chainmen, viewed, marked, and located said road between the points aforesaid; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,*

That all the acts of the said Wesley Parke in the location of said road, be, and the same are hereby legalized and made valid to all intents and purposes, and the boards doing county business in the several counties through which said road passes are hereby required to make the said Wesley Parke such allowance for said services as provided by law.

This act to be in force from and after its passage.

CHAPTER CXLI.

An Act for the relief of John Busby.

[APPROVED, FEBRUARY 15, 1839.]

WHEREAS, it is represented to this general assembly, that John Busby, collector of the state revenue, in the county of Madison, for the years eighteen hundred and thirty-six and seven, paid over to the state treasurer, as collector for the years aforesaid, forty-one dollars and seventy-one cents, in consequence of erroneous assessment; for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the auditor of public accounts be instructed to audit, and the treasurer of state to pay to said John Busby the sum of forty-one dollars seventy-eight cents, out of any moneys in the treasury not otherwise appropriated.

This act to take effect and be in force from and after its passage.

CHAPTER CXLII.

An Act for the relief of William W. Wilson.

[APPROVED, JANUARY 24, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall and may be lawful for the circuit court of the county of Fayette, to take cognizance of the case of said William W. Wilson upon petition as in other cases, and grant to the said William W. Wilson a divorce from his wife Susan, upon proving to the satisfaction of said court an abandonment with an intention to wholly abandon said William W. Wilson, on the part of his said wife, although said wife may not have abandoned said William W. Wilson for two years or more, at the time of filing said petition, no other good cause appearing to said court why said divorce should not be decreed.

This act to be in force from and after its passage.

CHAPTER CXLIII.

An Act to authorize John Davis to convey certain property therein named.

[APPROVED, JANUARY 24, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Davis of the county of Henry, be, and he is hereby authorized to convey by deed in fee simple, all or any part of the lots in the town of Raysville, and all other lots and parcels of land that the heirs of John Anderson, deceased, are bound to make, on receiving proper evidence that the purchasers of said lots or parcels of land, have severally paid to the proper person or persons being legally authorized to receive the sums originally agreed upon, between the said John Anderson and such purchasers during his life; and such deed or deeds when duly executed according to law shall have the same effect as if executed by the said John Anderson, during his life.

SEC. 2. The said John Davis, in all such conveyances, shall take from the widow of the said John Anderson, deceased, her voluntary relinquishment of dower in said lots or parcels of land.

This act to take effect and be in force from and after its passage.

CHAPTER CXLIV.

An Act for the relief of John Bowland.

[APPROVED, JANUARY 19, 1839.]

WHEREAS, it is represented to the general assembly of the state of Indiana, that some time in the year 1838, John Bowland, administrator of Samuel Hartsock, late of Monroe county, deceased, executed to Jefferson Wampler, three promissory notes for eighty-three dollars thirty-three and a third cents each, on account of debts due said Jefferson Wampler, from the said estate, with the express understanding of the parties that the said notes were to be paid out of the assets of said estate, and not otherwise; *And whereas,* it is also represented that the said Wampler has sued and obtained judgment on each of said notes contrary to the such understanding and equity; *And whereas,* it is further represented that the president judge of the seventh judicial circuit is absent from his circuit, and that in the county of Monroe, there is at present but one associate judge, and that the individual property of the said John Bowland is levied and will be sold unless he can obtain relief in a few days by injunction, which he cannot obtain from the circuit court for the cause above enumerated; wherefore,

Be it enacted by the General Assembly of the State of Indiana, That Abraham Buskirk the only associate judge of Monroe county, be, and he is hereby authorized and required to examine bill of complaint of the said John Bowland, and if in the opinion of the said associate judge, the equity of his case demands it, he is hereby invested with full and ample jurisdiction of the case so far as to grant an injunction to stay proceedings on the several judgments at law according to the usage and practice in courts of chancery: Provided, however, that not more than three days notice need be given to the defendant or defendants, any law or usage to the contrary notwithstanding.

This act to be in force from and after its passage.

CHAPTER CXLV.

An Act to revive "an act entitled an act to amend an act for the benefit of those persons who have or are likely to suffer by the destruction of the records of Dearborn county, which were consumed in the court house, in Lawrenceburgh, on the 6th of March, 1826," approved January 11, 1827.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the above named act, be, and the same is hereby revived and continued in force from and during the term of one year from and after the passage of this act.*

SEC. 2. That James T. Brown, William R. Cole, and Richard H. Holman, be, and they are hereby appointed commissioners under the provisions of the act hereby revived and continued in force; and it shall be the duty of the said commissioners to meet on the first Monday in May next, and as often thereafter as the business may require during the present year, and shall be governed in all respects by the provisions of said act.

This act to be in force from and after its passage.

CHAPTER CXLVI.

An Act relating to a Lunatic Asylum in Fayette county.

[APPROVED, JANUARY 29, 1839.]

WHEREAS, the counties of Franklin, Fayette, and Union have united in the erection of an asylum for the relief of the poor in the coun-

ty of Fayette, under "an act for the relief of the poor," approved February 17, 1838; and whereas, an unequal burthen has devolved upon the citizens of Fayette county, and especially upon the overseers of the poor residing in the township in which said asylum is situated, in being under the law required to bind out all minor paupers, contemplated by said act; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the directors on the part of the above counties for said asylum, shall perform all the duties that are now required by law of the overseers of the poor in said counties, so far as to bind out all minor paupers attached to said asylum, which heretofore has devolved on the overseers of the poor under an act to which this is an amendment.*

SEC. 2. That all laws and parts of laws coming within the purview of this are hereby repealed.

This act to be in force from and after its passage.

CHAPTER CXLVII.

An Act to repeal an act entitled, an act specifically appropriating a certain amount of the Three per Cent. Fund now due, or hereafter first to become due and payable to the county of Porter," approved February 17, 1838.

[APPROVED, JANUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the act above referred to is hereby repealed.*

This act to be in force from and after its passage.

CHAPTER CXLVIII.

An Act relative to a state road in Laporte County.

[APPROVED, JANUARY 4, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the following route be declared a state road, to wit: the county road running from the village of Laporte in a south-westerly direction until it intersects the lane running north and south through the land of James Andrews and others; thence south by said lane until it intersects another lane running east and west; thence west by said lane until it intersects the county road from Laporte to the Door; said route being also that which is at present most generally or entirely travel-

led between the last mentioned places; thence by the county road laid out from said point *via* the Beaver dam &c., until the same intersects the state road located in accordance with the act relating to state roads, approved February 6, 1837.

CHAPTER CXLIX.

An Act authorizing John Manning, Sen'r, to build a Mill Dam across the Little St. Joseph River.

[APPROVED, JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Manning, Sen., of Allen county be, and he is hereby authorized to build a mill dam across Little St. Joseph's river, on section No. 15, of township No. 32, north of range 13 east: *Provided,* that he be required to construct in, or connect with said dam, a good, sufficient, and permanent lock that will allow the free passage of all boats, rafts, and all other water crafts that are or may be necessary in the navigation of said stream, or that have been used thereon; said lock to be kept in good repair and condition for the free passage of all boats and crafts as aforesaid, so long as said dam or any part thereof shall remain in said river, to the end that the navigation of the said Little St. Joseph's river may forever remain free and uninterrupted.

SEC. 2. The mill to be propelled by the water raised by said dam, and so much of the adjoining land as is made for the accommodation of said mill to embrace all the privileges necessary for said mill or mills, and the owner or owners thereof, shall at all times be subject to the payment of any and all damages that may be sustained by any individual or individuals in consequence of building said dam as aforesaid, whether the same remains in the possession or is continued to be owned by said John Manning, Sen., his heirs or assigns.

SEC. 3. The said John Manning, Sen., his heirs or assigns shall be entitled to all the benefits of the writ of *ad quod damnum* to condemn any property that may be necessary to the erection of said dam as is prescribed by law upon that subject.

SEC. 4. Nothing in this act shall be so construed as to prevent the State of Indiana at any time hereafter from directing and controlling the water of said dam or any machinery connected therewith, and applying the same to any public purpose or use.

This act to take effect and be in force from and after its passage.

CHAPTER CL.

An Act for the relief of Joseph Hendricks.

[APPROVED, FEBRUARY 6, 1839.]

WHEREAS, it is represented to this General Assembly, that Joseph Hendricks, one of the contractors on the Madison and Lafayette rail road, has not had a full and just estimate of the work done and money due on said contract, owing to defects in the profile of that part of the hill embraced in said contract, and to a failure to allow a compensation in damages for the interruption of his labors by the travel on the state road, and other causes; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all matters in difference between the said contractor and the state, on account of said contract, or the labor performed thereon, is hereby referred to the arbitrament and award of five persons, two of which shall be appointed by the board of internal improvement, two by the said contractor, and one by the four thus appointed.

SEC. 2. Said arbitrators shall in all respects be governed by the laws now in force relative to arbitrament, as to examination of testimony, and may employ an engineer for the purpose of measuring said work.

SEC. 3. The said contractor shall file in the office of the clerk of the Jefferson county circuit court, a statement in writing, setting forth particularly his claim against the state, and on what founded; a copy of which statement shall be served with the notice hereinafter required.

SEC. 4. The notice of the time and place of the meeting of said arbitrators, shall be in writing, and served on a member of the board of internal improvement, or on the person having the general superintendence of said line, which service shall be made at least fifteen days before the time of meeting.

SEC. 5. The said arbitrators shall make their award in writing, to which a majority of them shall agree and sign, and file the same with the clerk of the Jefferson county circuit court, within five days after the same is made, and it is hereby made the duty of said clerk forthwith, after the filing of said award, to notify said contractor and the said board, of such filing.

SEC. 6. Either the said contractor or the said board, or any member thereof, may appeal from said award to the circuit court, by filing a notice of the same in said clerk's office within thirty days after notice of the award being filed; *Provided,* That in case of appeal on the part of said contractor, he shall file a bond and security, to be approved by the clerk, in a sum sufficient to pay all costs.

SEC. 7. In case of appeal, the court shall try the case *de novo.* This act to take effect and be in force from and after its passage.

CHAPTER CLI.

An Act to repeal an act, entitled, "an act to vacate part of a street in the bounds of the donation near Indianapolis," approved February 17th, 1838.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled, "an act to vacate part of a street in the bounds of the donation, near Indianapolis," approved, February 17th, 1838, be, and the same is hereby repealed.

This act to take effect from and after its passage.

CHAPTER CLII.

An Act for the relief of the securities of Norris U. Sexton, late collector of Laporte county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That, whereas, a certain judgment was rendered in the Laporte circuit court, at the April term, 1838, in favor of the state of Indiana, against Norris U. Sexton, John Brown and Samuel Stewart, for upwards of three thousand dollars on a collector's bond; and on the said judgment the said Brown and Stewart have paid the sum of one hundred and ninety seven dollars eighty three cents more than was justly due; therefore, the auditor of public accounts is hereby directed to audit, and the treasurer of state to pay to the said John Brown and Samuel Stewart, the said sum of one hundred and ninety seven dollars and eighty three cents.

SEC. 2. And whereas, by an act of the Legislature, a re-assessment of the tax for the year 1837, on the property of John Walker, in Laporte county, was ordered, and said tax so assessed was collected by the collector of Laporte county for the year 1838; but in the mean while, the tax according to the first assessment was paid into the state treasury by the said Brown and Stewart, securities for the former collector; therefore, *Be it further enacted,* That the auditor of public accounts audit to, and that the treasurer of state pay to the said Brown and Stewart, the amount of the tax so first assessed to said John Walker, in Laporte county, and paid by them as aforesaid.

CHAPTER CLIII.

An Act to change the name of Daniel Bully.

[APPROVED, JANUARY 1, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the name of Daniel Bully, formerly of Hendricks county, state of Indiana, shall be and the same is hereby changed to Daniel Thompson Lindsay, and by said last mentioned name he shall have power to contract and be contracted with and do all other lawful acts and things.

SEC. 2. Nothing contained in this act shall be so construed as to affect, alter, or annul any contract or act done, suffered, or permitted by said Daniel Thompson Lindsay, while he was known by the name of Daniel Bully, but the same shall be taken as if this act had never passed.

This act to be in force from and after its publication.

CHAPTER CLIV.

An Act for the benefit of certain owners of lots in the town of Jeffersonville.

[APPROVED, FEBRUARY 15, 1839.]

WHEREAS, it is represented to this General Assembly, that certain owners of lots in the town of Jeffersonville have never received deeds for lots as authorized by the provisions of an act entitled, "an act to change the plan of the town of Jeffersonville," approved, January 3d, 1817; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of trustees of the town of Jeffersonville, for the time being, shall be, and they are hereby vested, with the like power and authority to make deeds and conveyances to owners of lots in said town, to whom deeds have not heretofore been executed, as the trustees of said town were authorized to do, by the act, entitled, "an act to change the plan of the town of Jeffersonville," approved, January 3d, 1817.

SEC. 2. The conveyance which may be made by the trustees under the authority of this act, shall have like force and effect as if the same had been made by the trustees in office at the time of the passage of the act aforesaid.

This act to be in force from and after its passage.

CHAPTER CLV.

An Act providing for the mode of electing county commissioners in Spencer county

[APPROVED, JANUARY 23, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That on the first Monday of April, 1839, there shall be an election held at the different polls in said county, in that commissioner's district in which the term of service of the present incumbent will expire on the first Monday of August next, for the purpose of electing a commissioner; in which election no one shall be permitted to vote except those legal voters residing in said commissioner's district. Said commissioner shall hold his office for the term of three years and until his successor is elected and qualified.

SEC. 2. That on the first Monday in April each year, preceding the expiration of the present term of service of the two remaining commissioners of said county, an election shall be held in said district for the purpose of electing a commissioner in said district; said election shall be regulated in all things as in the above section presented, and said commissioners, when so elected, shall each hold their said office for the term of three years, and until their successors are elected and qualified.

SEC. 3. After the first election of a commissioner, in each district in said county, there shall thereafter, each year, be an election held in that district where a vacancy may happen by the expiration of the term of service of the commissioner of such district, for the purpose of electing his successor; which said election shall correspond in all things with the provisions of the first section of this act.

SEC. 4. The election to be so held on the first Monday of April, as above provided, shall be regulated in all things by the law now in force on the subject of general elections, except so far as it regards the term of holding, and the persons voting at said election.

This act to be in force from and after its publication in the Indiana Journal.

CHAPTER CLVI.

An Act authorizing the sale of lot number seven, in square forty-six, in the town of Indianapolis.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the auditor, treasurer, and secretary of state, to examine lot, No. seven, in square forty-six, in the town of In-

dianapolis, and estimate the value thereof, and certify their valuation to the agent of the state for the town of Indianapolis, whose duty it shall be, after twenty days notice given by him in the Indiana Journal and Democrat, to sell the said lot at public sale to the highest and best bidder; *Provided,* That the same bid shall equal or exceed the appraisement of the auditor, treasurer, and secretary, but not otherwise.

SEC. 2. The terms of payment and manner of conducting the sale, shall be governed by the laws now in force in reference to the sale of lots in the town of Indianapolis.

This act to take effect and be in force from and after its passage.

CHAPTER CLVII.

An Act declaring a certain state road vacated.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the state road as viewed, marked, and located by Henry P. Kun, George Boone, and Ignatius Akell, from Corydon, in Harrison county, to the Ohio river, opposite the mouth of Salt river, Kentucky, be, and the same is hereby vacated.

This act to take effect and be in force from and after its passage.

CHAPTER CLVIII.

An Act repealing the 117th section of an act for establishing certain state roads therein named.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the 117th section of an act entitled, an act for establishing certain state roads therein named, approved, February 17, 1838, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER CLIX.

An Act to establish a certian state road therein named.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William S. Gale, and Solomon Patterson of the county of Montgomery, and Hugh M'Donald, of the county of Boone, be, and they are hereby appointed commissioners, to view, mark, and locate a state road from Thorntown in the county of Boone, to where the Crawfordsville and Frankfort state road crosses Hazel creek in the county of Montgomery.

SEC. 2. The said commissioners shall meet at Thorntown on the first Monday in May next, or on some subsequent day thereafter, and, after taking an oath faithfully to discharge the duties imposed on them by this act, shall proceed to view, mark, and locate said road, on the nearest and best ground between the points aforesaid, having due regard to private property.

SEC. 3. The commissioners aforesaid shall have power to employ all necessary assistance to enable them to carry into effect the provisions of this act, and shall, within twenty days thereafter, file a plat of said road in the clerks' offices of the counties of Boone and Montgomery; and the boards doing county business, shall cause the said road to be opened and kept in repair as county roads are.

SEC. 4. The boards doing county business in the counties of Boone and Montgomery, shall make to the said commissioners and all others employed in the location of said road, a reasonable compensation for their services, to be paid, out of the treasuries of said counties, in proportion to the length said road may pass through each of the counties aforesaid.

This act to take effect and be in force from and after its passage.

CHAPTER CLX.

An Act to extend the privileges granted to the Salem Savings' Institution.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the president and directors of the Salem savings' institution, may, if they shall deem it expedient or find it necessary, increase the capital stock of said institution, two hundred thousand dollars, to be divided into shares of fifty dollars, as prescribed by the act entitled, an act to incorporate the Salem savings' institution, approved, February 6, 1836.

CHAPTER CLXI.

An Act to establish a state road in Lawrence county.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That John M'Crea and Lazarus Barkley, be, and they are hereby appointed commissioners, to view, mark, and locate a state road, from Springville in Lawrence county, to intersect the Indianapolis and Leavensworth state road, at, or near Marysville post office, in said county; said commissioners, in locating said road, shall have due regard to individual rights, and the general convenience of the settlement, and in all other respects, they shall be governed by the laws now in force, regulating the location of state roads, except so far as to the time of its location, which shall be the earliest possible day, after the publication of this act.

This act to take effect and be in force from and after its publication.

CHAPTER CLXII.

An Act concerning the Logansport and Chicago state road.

[APPROVED, JANUARY 24, 1839.]

WHEREAS, a part of the survey and location of a state road from Logansport to Lake county, has been lost, or miscarried by mail, so that a proper record thereof has never been made in the county of Porter, therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the locating commissioners, or any one of them, who located said road, be authorized and required to file a certified plat, and field notes of the survey of said road, in the clerk's office of the county of Porter, within three months after the passage of this act; and the same shall be recorded and considered a public road, in the same manner, as though the same had been recorded within the time fixed by law for recording state roads.

This act to take effect and be in force from and after its passage.

CHAPTER CLXIII.

An Act to provide for the election of an additional justice of the peace in the county of Kosciusko.

[APPROVED, FEBRUARY 11, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the board of commissioners of said county, shall, at the next May session of said board, order an election to be held in Plane township, at such time and place as they may think proper, for the election of an additional justice of the peace for such township, whose duty it shall be to keep his office at or near the town of Oswego in said township.

This act to be in force from and after its passage.

CHAPTER CLXIV.

An Act authorizing the opening of a state road therein named.

[APPROVED, JANUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the boards doing county business in the counties of Dubois and Pike, may at their discretion, cause the state road leading from Rome, in Perry county, to Petersburg, in Pike county, which was established by an act of the General Assembly some sessions past, to be located and opened through their respective counties, over the most direct and practicable route; the expense of which shall be defrayed through each of the aforesaid counties, out of the three per cent. fund of each county so far as it may pass through its territory.

This act to take effect and be in force from and after its passage.

CHAPTER CLXV.

An Act for the relief of Thomas Strong.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That Thomas Strong of the county of Union, and state of Indiana, be, and

he is hereby restored to all the privileges and franchises belonging to the citizens of this state; and is hereby rendered capable of holding any office of trust, profit, or honor; of voting at all elections, serving as a juror, and rendered capable to give evidence in any court of justice in this state, in as full and ample a manner as other citizens of the state of Indiana.

This act to take effect and be in force from and after its passage.

CHAPTER CXLVI.

An Act for the relief of Joshua Wilson of Morgan county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Joshua Wilson, who was convicted of an assault and battery on the body of Thomas Stewart, of Morgan county, with intent to MURDER, and sentenced to imprisonment in the state prison, and afterwards pardoned by the Governor, be, and he is hereby restored to all the rights, privileges, and franchises, to as full an extent as he was entitled before said conviction.

This act to take effect and be in force from and after its passage.

CHAPTER CLXVII.

An Act to extend the time for the collection of the state revenue of St. Joseph county.

[APPROVED, DECEMBER 20, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the collector of St. Joseph county, shall be allowed the further time, until the fifteenth day of January, A. D. 1839, to complete the collection of the state revenue of 1838, and the payment of the same into the state treasury.

SEC. 2. *Be it further enacted,* that the said collector shall be entitled to receive the same compensation for his services, that is allowed to collectors, by the revenue law now in force.

SEC. 3. That Charles M. Heaton, who was first appointed said collector, is hereby authorized and required, to pay over to John Mas-

sey, his successor in office, all taxes he may have collected during his continuance in office—that said Massey may be enabled to settle the whole amount of said state revenue at the time contemplated by this act.

This act to take effect and be in force from and after its passage.

CHAPTER CLXVIII.

An Act declaring certain names misprint.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the names of John T. Torbet, Edward Devire, Adam Kellar, Isom Green, Nicholas Arnick and Paris state road printed in the second section of "an act to appropriate the three per cent. fund in certain counties therein named," approved, February 4th, 1837, be, and the same are hereby declared a misprint; that the name of John T. Torbet should be John S. Torbet, that of Edward Devire should be Edward Dwire, that of Adam Kellar should be Adam Kellar, that of Isom Green should be Isaiah Green, that of Nicholas Arnick should be Nicholas Amick, and Paris state road should be Paris state roads.

This act to take effect and be in force from and after its publication in the *Vernon Visiter*.

CHAPTER CLXIX.

An Act to locate a state road from the Fort Wayne state road in Decatur county to Hartsville in Bartholomew county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Robert G. Swails, Oliver Welch and Swinney be, and they are hereby appointed commissioners to view, mark and locate a state road commencing on the Fort Wayne state road, at the bridge at the crossing of Clifty creek, on the north side of said creek; thence down the creek via Eli Critser's mills, to the bridge across Clifty on the Michigan road; thence to Milford; and from thence via the mills of Henry Critser and William Critser to Hartsville in Bartholomew county.

SEC. 2. Said commissioners, or any two of them, shall meet at the residence of Ebenezer Douglass, Esq., in Decatur county, on the third

Monday of May next, or some subsequent day between that time and the first Monday in July next, and after taking an oath to discharge their duties, proceed to locate said road on the nearest and best ground between said points.

SEC. 3. Said commissioners, or a majority of them, shall make out a written report of their actings and doings in the premises to and at the first meeting of the board of commissioners of the county of Decatur next after the completion of said location.

SEC. 4. Each of said commissioners shall be allowed one dollar per day for each day spent in locating said road, to be paid out of the treasury of Decatur county.

This act to take effect from and after its passage.

CHAPTER CLXX.

An Act authorizing the opening of a state road therein named.

[APPROVED, JANUARY 28, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the boards doing county business in the counties of Spencer, Dubois and Pike may, at their discretion, cause the state road leading from Rome in Perry county to Petersburg in Pike county, which was established by an act of the General Assembly some sessions past, to be located and opened through their respective counties, over the most direct and practicable routes, the expense of which shall be defrayed through each of the aforesaid counties out of the three per cent. fund of each county, so far as it may pass through its territory.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXI.

An Act to appropriate three per cent. fund in Fountain county.

[APPROVED FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sum of six hundred dollars out of the first amount of the three per cent. fund due the county of Fountain, and not now appropriated be, and the same is hereby appropriated as follows: three hundred dollars on that part of the state road leading from Rockville to Lafayette which lies between the towns of Jacksonville and Hillsborough, and three hundred dollars to the builders of a bridge across the mouth

of Bear creek near Portland on the state road leading from Covington to Lafayette in said county of Fountain.

SEC. 2. That so soon as the agent of the three per cent. fund shall receive the above sum for the use of said county, it shall be the duty of the board of commissioners of said county to appoint two suitable persons to superintend the application of said sum of money on said road and bridge, who shall take an oath faithfully to discharge their duties, and enter into bond to the acceptance of the board of commissioners of said county. The said board shall also allow such persons a reasonable compensation for their services.

SEC. 3. A certified copy of the order of the board, under the seal of the clerk thereof, shall be a sufficient authority for the said agent of the three per cent. fund to pay over the said sum of money to the persons appointed under the provisions of this act.

This act to be in force from and after its passage.

CHAPTER CLXXII.

An Act to legalize the election of the probate judge of Kosciusko county.

[APPROVED, JANUARY 24, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the election of the probate judge of the county of Kosciusko be, and the same is hereby declared to be lawful: *Provided*, said probate judge file a certificate of qualifications as directed by law.

This act to be in force from and after its passage.

CHAPTER CLXXIII.

An Act to legalize the name of Nathan Walden.

[APPROVED, FEBRUARY 11, 1839.]

WHEREAS, Elizabeth Myers, previous to her intermarriage with James Walden, had a son, who has ever since the said marriage of his mother, assumed to himself the name of Nathan Walden, and by that name has been known and contracted [with:] and whereas the said Nathan Walden, who is now a resident of the township of Jefferson in the county of Switzerland in this state, is apprehensive that his acts under the name of Nathan Walden may not be valid; therefore,

Be it enacted by the General Assembly of the State of Indiana, That the said son of Elizabeth Myers shall hereafter be known by the name of Nathan Walden, the name assumed by him as aforesaid, and all acts by him done, and all contracts by him made in his said assumed name shall, and the same are hereby declared valid to all intents and purposes.

This act to be in force from and after its passage.

CHAPTER CLXXIV.

An Act to change the name of the town of Clarkstown in the county of Boone.

[APPROVED, FEBRUARY 6, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the name of the town of Clarkstown, in the county of Boone be, and the same is hereby changed to the name of Hamilton; and the said town of Clarkstown shall hereafter be known and called in all public transactions, by the aforesaid name of Hamilton: *Provided, however*, that the change shall in no way affect any contract heretofore made, or any public or private rights.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXV.

An Act for the relief of Edward Gird, late collector of Shelby county.

[APPROVED, FEBRUARY 11, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for Edward Gird, late collector of Shelby county, to sue for and collect, before any justice of the peace, having jurisdiction, from any person or persons for whom he has paid as collector any money which they were liable to pay him as collector of the state and county revenue for Shelby county, and which they have not paid to any person authorized to receive it: *Provided*, suit shall be commenced on or before the first day of December, 1839—any law to the contrary notwithstanding.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXVI.

An Act to amend an act entitled "an act to establish certain state roads therein named, and for other purposes, approved, February 17, 1838.

[APPROVED, JANUARY 24, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That so much of the state road as is authorized in the 137th section of the above act as lies between the south-west corner of section sixteen, in township fifteen, range twelve east, and the line dividing the counties of Fayette and Wayne, is hereby declared vacated.

This act to be in force from and after its passage.

CHAPTER CLXXVII.

An Act to vacate a state road in Morgan county.

[APPROVED, FEBRUARY 13, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That all that part of the state road located by John Ratliff, leading from Carthage in Putnam county to Monrovia in Morgan county, which runs through Morgan county, is hereby vacated.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXVIII.

An Act to authorize the election of two additional justices of the peace in Shelby county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That there shall be elected one additional justice of the peace in Mor-al township in Shelby county, by the qualified voters in said township. Said election shall be held at the usual place of holding township elections, and at the time of electing township officers for the year 1839.*

SEC. 2. *There shall be elected one additional justice of the peace, in Hanover township in Shelby county, by the qualified voters in said*

township. Said election shall be held at the usual place of holding township elections, and at the time of electing township officers for the year 1839, said justice of the peace shall reside in Morristown in the said township of Hanover.

SEC. 3. The election of the two additional justices of the peace provided for by this act, shall be held and conducted by the proper township officers for holding township elections.

This act to take effect and be in force from and after its publication in the Indiana Statesman.

CHAPTER CLXXIX

An Act to legalize the acts of Jane Owens, executrix of the last will and testament of Samuel Owens, deceased.

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, at the August term of the probate court of Lawrence county for eighteen hundred and thirty-five, Jane Owens, executrix of the last will and testament of Samuel Owens, late of Lawrence county, deceased, was by said probate court authorized to sell at private sale certain town lots belonging to said estate; *And whereas*, doubts have arisen whether the manner of giving notice to all the heirs of said Samuel Owens was strictly in accordance with the requirements of the law: *And whereas*, one Robert Mitchell was by said court appointed a commissioner to execute deeds to the purchasers of said lots, which was accordingly done; therefore,

Be it enacted by the General Assembly of the State of Indiana, That the sale and conveyance of said lots are, and the same are hereby legalized, so far as the giving legal notice of the sale could affect the title of the purchaser or purchasers to the said lots: Provided, however, that all the heirs did in fact know when and where the said sale would take place.

This act to take effect and be in fore from and after its passage.

CHAPTER CLXXX.

An Act legalizing the report of James Holliday, late collector of Tippecanoe county, and extending the time for completing the collection of the revenue of said county, for the year 1838.

[APPROVED, JANUARY 24, 1839.]

WHEREAS, James Holliday, esq., late collector of Tippecanoe county, for the year eighteen hundred and thirty-eight, failed to make re-

turn of a list of delinquent lands and town lots in said county, by the first day of December, as required by law, but made before his death, to-wit: on the seventh day of December last, a return of said delinquent lands and town lots to the clerk of the said county; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall and may be lawful for the clerk of Tippecanoe county to make return of a copy of the list of delinquent lands and town lots, filed with him as aforesaid, by the first day of March next, and the said return so made by said clerk, as well as the return made by the said deceased collector to said clerk shall be taken and held as legal as they would have been if the said return had been made by said collector as required by law.

SEC. 2. *And be it further enacted,* That the collector that is or may be appointed to complete the collection of the revenue of Tippecanoe county, for the year eighteen hundred and thirty-eight, shall be allowed until the May session of the county commissioners of said county, in the year eighteen hundred and thirty-nine, to make final settlement with said commissioners.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXXI.

An Act to improve the navigation of the Muscatitack river.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the several boards doing county business in the counties of Jennings, Jefferson, Scott, and Washington, at their May session, annually, to appoint a suitable number of persons as supervisors, whose duty it shall be to attend to clearing out obstructions in the Muscatitack river from its mouth to the forks, and along the East fork to the mouth of Graham creek, and along the Brushy fork from its mouth to the mouth of Hog creek, where the same may run through or adjoining their several counties.

SEC. 2. All persons residing within one and a half miles of said river or of the forks aforesaid, on either side shall work one day on the same in each year, and be allowed a credit as of one day upon public highways.

SEC. 3. Any and all persons unlawfully obstructing in any way the free navigation of said river, or the forks aforesaid, shall be subject to the same penalties, as are imposed for obstructing highways.

SEC. 4. Supervisors and others subject to work under this act shall be governed by the law regulating public roads and highways.

This act to be in force from and after its passage.

CHAPTER CLXXXII.

An Act to legalize the acts of the board of Justices of the peace in Crawford county.

[APPROVED, FEBRUARY 14, 1839.]

WHEREAS, it is represented that the acts of the last session of the legislature changing the mode of doing county business in said county were not published in time to have an election for county commissioner at the time prescribed by said act; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the meetings and proceedings of the board of justices of the peace in Crawford county, at their several sessions within the past year are hereby made as valid in law, as the meetings and proceedings of the board of justices would have been had not the mode of doing county business in said county been changed by an act of the last session of the general assembly.

This act to be in force from and after its passage.

CHAPTER CLXXXIII.

An Act to legalize the sale of the school section of congressional township number three, north of range number six east, in Scott county.

[APPROVED, JANUARY 28, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all and singular the proceedings of the trustees of congressional township number three, north of range number six east in Scott county, and of the school commissioner of said county in relation to, and connected with the sale of the school section of the aforesaid congressional township, be, and the same are hereby legalized; and the sale of said school section is to all intents and purposes declared valid according to the existing school laws on the subject.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXXIV.

An Act relative to an additional Justice of the Peace in Plummer township, Greene county.

[APPROVED, FEBRUARY 11, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the board doing county business in the county of Greene, at any time after the passage of this act shall, if they think the public good requires it, order the election of an additional justice of the peace in Plummer township in said county, to be elected by the qualified voters of said township, whose residence shall be in the town of Scotland in said county, and to vacate his office whenever he ceases to be a citizen of Scotland; said election shall be governed in all respects by the laws regulating the election of justices of the peace generally.

This act to take effect from and after its passage.

CHAPTER CLXXXV.

An Act declaring a certain word a misprint.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the words "township twenty" in an act entitled "an act for the relief of John Bennet," approved February 14, 1838, is hereby declared a misprint, and in lieu thereof, the words township twenty-seven, it is hereby declared should have been inserted as being correct.*

This act to take effect and be in force from and after its passage.

CHAPTER CLXXXVI.

An Act for the formation of a school district in Monroe county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the territory included within the following bounds shall form and constitute a new school district, to-wit: the south half of section twelve,*

all of sections thirteen, fourteen, and twenty-four, in township number nine, north of range number two west, and the west half of section number nineteen, township number nine, north of range number one west; which said school district shall be subject to all the laws now in force regulating common schools in the state of Indiana, and shall enjoy all the rights, privileges, and immunities, which any other school district enjoys under and by virtue of the provisions of the school laws now in force. And it shall be the duty of the school commissioner of said county to designate said district by the appropriate number, by which number it shall hereafter be known and designated.

This act to be in force from and after its passage.

CHAPTER CLXXXVII.

An Act for the benefit of John Robinson.

[APPROVED, FEBRUARY 3, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That John Robinson sometimes, called John Ross, son of Susan Ross, be taken and deemed to be the legitimate son of Michael Dean Robinson, and that he shall be, and he is hereby invested with the same rights as an heir of the said Michael Dean Robinson.*

SEC. 2. *That the said John Ross shall hereafter be known and called by the name of John Robinson.*

SEC. 3. *That this act shall take effect and be in force so soon as said Michael Dean Robinson shall cause a copy of it endorsed as follows: "I do accept the provisions of this act,*

MICHAEL DEAN ROBINSON, [seal,]"

to be recorded in the recorder's office of Gibson county.

This act to be in force from and after its passage.

CHAPTER CLXXXVIII.

An Act for the relief of the Collector of the state revenue of Porter county.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the collector of the state revenue of the county of Porter, for the year 1838, be allowed until the first day of April, 1839, to settle with*

the auditor and treasurer of state for said revenue; upon which settlement, the collector aforesaid shall be allowed his legal claims, per centage, mileage, and delinquent list, to which he would have been entitled if such settlement had been made within the time prescribed by an act to provide for an equitable mode of levying the tax of this state, approved February 7, 1835.

This act to take effect and be in force from and after its passage.

CHAPTER CLXXXIX.

An Act for the relief of Matthew Griggs.

[APPROVED, FEBRUARY 14, 1839.]

WHEREAS, an error has occurred in the assessment of ninety-one acres and twenty-six hundredths of land belonging to Matthew Griggs, in the county of Allen; *And whereas*, said Griggs not being apprized of said error until after the time had expired for him to apply to the board of county commissioners for relief in such cases made and provided; *And whereas*, owing to the existence of said error, said Griggs has been compelled to pay to the collector of said county the sum of twenty-two dollars and eighty-four cents county tax, and thirteen dollars thirty-seven cents state tax, more than he was justly entitled to pay; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the treasurer of state be and he is hereby directed to refund to the said Matthew Griggs the sum of thirteen dollars and thirty-seven cents.

SEC. 2. That the board of commissioners of the county of Allen, be, and they are hereby directed to refund to the said Matthew Griggs the sum of twenty-two dollars and eighty-four cents.

This act to be in force from and after its passage.

CHAPTER CXC.

An Act authorizing an additional Justice of the Peace in Vermillion county.

[APPROVED, FEBRUARY 13, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the board doing county business in Vermillion county, at the next May session, or at some subsequent session, to order an election of one additional justice of the peace in Highland township in said county, who shall reside in the town of Perrysville, and a removal from said town shall be a vacation of office.

This act to take effect and be in force from and after its passage.

CHAPTER CXCI.

An Act to extend the time for the collection of the revenue of Laporte county.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the present collector of Laporte county be allowed the further time until the first day of May next, to complete the collection of the revenue of said county, and to pay the state revenue into the state treasury.

SEC. 2. That said collector shall be allowed the same compensation for his services, that is allowed to collectors of the revenue, by the revenue laws now in force.

This act to be in force from and after its passage.

CHAPTER CXCI.

An Act for the relief of Gideon Conklin and Frederick Ellzroth.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the boards doing county business for the counties of Carroll and Grant, are hereby authorized and required to make such allowance to Gideon Conklin and Frederick Ellzroth, commissioners appointed to locate a state road from Delphi, in Carroll county, to Marion, in Grant county, as may be just. The said board shall be governed in making such allowance, in all respects by an act, entitled, "an act to locate certain state roads therein named, and for other purposes," approved, February 17th, 1839.

SEC. 2. This act to be in force from and after its passage.

CHAPTER CXCI.

An Act for the relief of J. H. M'Maken and Elias Murray.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of internal improvement be, and they are hereby di-

rected, to hear such testimony as may be submitted to them by J. H. McMaken and Elias Murray, touching losses sustained by said McMaken & Murray, in constructing a portion of the Wabash and Erie canal; and after hearing the evidence of the principal engineer, and such other evidence as may be brought before them, said board shall be of the opinion that the losses of said McMaken & Murray are of an extraordinary character, and such as will justify the interposition of the state in their behalf, they are hereby authorized to allow to said McMaken & Murray (at their discretion,) such sum or sums as they may have honestly earned, and forfeited to the state by the abandonment of their contracts.

This act to be in force from and after its passage.

CHAPTER CXCV.

An Act authorizing an additional Justice of the Peace in Clarke township, Montgomery county, and in Vigo township, in Knox county.

[APPROVED, FEBRUARY 11, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That an additional justice of the peace shall be elected by the qualified voters of Clarke township, in Montgomery county, to reside and hold his office in the town of Ladoga, in said township.

SEC. 2. *Be it further enacted,* That the board doing county business of the county of Montgomery, shall order said election at their next March session, and that said election shall be conducted in all things by the law now in force regulating elections of justices of the peace.

SEC. 3. That said justice shall forfeit his office whenever he shall remove from the said town of Ladoga.

SEC. 4. That whenever a vacancy shall happen in the office herein provided for and authorized, it shall be lawful to fill said vacancy as in other cases of vacancies in the office of justice of the peace in this state.

SEC. 5. That an additional justice of the peace shall be elected by the qualified voters of Vigo township, in Knox county, to reside in the town of Edwardsport, and not elsewhere.

SEC. 6. That the board of commissioners of Knox county shall order such election at their ensuing session, or as soon after as may be practicable, and that the successors of such justice shall be elected in the same manner as other vacancies among justices of the peace are supplied; and all such successors shall reside in said town.

This act to be in force from and after its passage.

CHAPTER CXCV.

An Act providing for the clearing out of Pride's Creek, in Pike county.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Pike, be, and they are hereby authorized, should they deem it expedient, to expend a part of the three per cent. fund belonging to the county of Pike, in clearing out and improving the navigation of Pride's creek from Petersburg to White river.

This act to take effect and be in force from and after its passage.

CHAPTER CXCVI.

An Act to legalize the acts of Avery McGee, of Brown county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acts of Avery McGee, as recorder of Brown county, be, and the same are hereby legalized, notwithstanding any irregularity in appointment; and the said Avery McGee is hereby authorized to act as such recorder, and perform all the duties which any other recorder could lawfully do, until the second Monday in August next, and until his successor shall be elected and qualified.

This act to take effect and be in force from and after its passage.

CHAPTER CXCVII.

An act for the relief of Thomas Jones.

[APPROVED, JANUARY 21, 1839.]

WHEREAS, it has been represented to this General Assembly, that Thomas Jones, a minor, of Bartholomew county, has, by his own industry and economy, been enabled to purchase a certain tract of land in said county, and now wishes further to advance his interest by transferring the title of said land to Daniel G. Bryant; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the said Thomas Jones be, and he is hereby authorized and empowered, to convey, in fee simple, as fully as though he were twenty-one years of age, his right and title to all lands of which he is possessed, unto the said Daniel G. Bryant, or any other person.
This act to be in force from and after its passage.

CHAPTER CXCVIII.

An Act for the relief of William Post.

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, William Post, of the county of Fayette, is the owner of a certain tract of land which has been forfeited by an act, entitled, "an act to provide a fund to encourage common schools," approved, February 2d, 1832, for the non-payment of tax; and, whereas, the school commissioner did, at the March term of the Fayette circuit court in 1838, obtain a judgment against said tract of land for the tax aforesaid; therefore,

Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the school commissioner of the county of Fayette, on the payment of tax and costs aforesaid, by the said William Post, his agent or attorney, to give a certificate of the same to the party aforesaid, who shall present the same to the clerk of the court aforesaid, whose duty it shall be to enter satisfaction on the judgment aforesaid, by the party paying to the clerk the usual fees for like entries; then the title to vest in said Post, or his heirs, in as full and complete a manner, as though no such judgment had been obtained.
This act to be in force from and after its passage.

CHAPTER CXCIX.

An Act to authorize a special session of the Probate Court of Knox county.

[APPROVED, DECEMBER 13, 1838.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the judge of the probate court of Knox county is hereby authorized, to hold a term of the said court on the fourth Monday of December, instant, and to set as long as may be necessary for the business on the docket of said court. That all process which was

issued returnable to the last November term of said court, or which may before the said fourth Monday of December be issued, returnable to the February term next of said court, shall be deemed and taken to be returnable to the said term, to be held on the said fourth Monday of December, instant.

SEC. 2. The sheriff of Knox county shall give notice in the Vincennes newspapers of the said term, and this act shall be in force from and after its passage.

CHAPTER CC.

An Act for the relief of Jonathan Legg.

[APPROVED, FEBRUARY 15, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the sinking fund commissioners are hereby authorized, to extend the time of payment of the interest on the loan to Jonathan Legg, on the part of the said fund, until the principal is due; the said Legg securing the said interest, with interest on the same, from the time each installment of interest becomes due, until paid.

This act to be in force from and after its passage.

CHAPTER CCI.

An Act authorizing the sale of certain school lands in Sullivan county.

[APPROVED, JANUARY 23, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of the county of Sullivan be, and he is hereby authorized, at any time he may judge most proper, to proceed to sell and convey any land which may have been appropriated by law for the use of common schools in fractional township number nine, north of range eleven west, and lying in the county of Sullivan, in like manner as if the aforesaid land had been ordered for sale by a competent number of legal voters of the aforesaid township.

SEC. 2. All moneys arising from the sale of the aforesaid lands, shall be loaned in the same manner, and the accruing interest applied in the same way, as that of other school lands. All laws and parts of laws, which contravene the provisions of this act, are hereby repealed so far as relates to the above named township.

CHAPTER CCII.

An Act to vacate the town of New Market.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the town of New-Market, in Tippecanoe county, be, and the same is hereby vacated.

This act to take effect and be in force from and after its passage.

CHAPTER CCIII.

An Act to provide for a justice of the peace in Eagle Village, Boone county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That a justice of the peace shall be elected within the town of Eagle Village in Boone county by the qualified voters of Eagle township in which the town of Eagle Village is situated, in the same manner they might or could do, if said town was incorporated.*

SEC. 2. The board doing county business of Boone county at their next session, or the clerk thereof, in vacation, shall cause this act to be carried into effect according to the laws in force providing for the election of justices of the peace and as in case of a vacancy of the office of justice of the peace.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER CCIV.

An Act for the relief of Clinton C. Owens.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That William Edmondson, township treasurer of congressional township number nine, north of range number two west, in the county of Monroe, or his successors in office, be and he is hereby authorized and required to pay over to Clinton C. Owens, whatever amount of money may be due and owing to him for teaching a school in school district*

number one, in the township, range, and county aforesaid, in the year 1837, he having been employed to teach said school, by James Parkes and John Acuff, who were then trustees of said district; said amount of money to be paid out of any money now in the hands of the said township treasurer, or out of the first money which may hereafter come into his hands.

SEC. 2. That in order to ascertain the amount of money due said Clinton C. Owens, the said William Edmondson, or his successors in office, shall receive a certificate from under the hands and seals of the said James Parkes and John Acuff, stating the amount which, in their opinion, is due to the said Clinton C. Owens, and the certificate of said amount, given in the manner aforesaid, shall be a sufficient voucher for the said William Edmondson, or his successor in office, to settle his account with proper officers; and he shall be entitled to, and receive a credit for said amount on a settlement of his accounts.

This act to take effect and be in force from and after its passage.

CHAPTER CCV.

An Act to legalize the acts of the county commissioners of Dubois county.

[APPROVED, FEBRUARY 12, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That any act of the county commissioners of the county of Dubois, during the year one thousand eight hundred and thirty eight, (1838) whether performed at their regular session, or at any special session of said board, be, and the same is hereby legalized.

This act to be in force from and after its passage.

CHAPTER CCVI.

An Act to authorize a state road from Spencer, in Owen county, to Anguilla, in the county of Clay.

[APPROVED, FEBRUARY 9, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That John Dunn and Andrew Fender of Owen county, and Jonathan L. Videts of Clay county, be, and they are hereby appointed commissioners to mark out, run and locate a state road from Spencer in Owen*

county, on the nearest and best ground to Anguilla, in the county of Clay.

SEC. 2. That the said commissioners shall meet in the town of Spencer, on some day agreed on by them, before the first day of June next, and after taking an oath to discharge their duties as such commissioners, before some person legally authorized to administer oaths, they shall employ such assistance as may be necessary and proceed to locate said road.

SEC. 3. It shall be the duty of said commissioners to report their doings in the premises to their respective boards doing county business for the said counties at least at their meeting in August next. The said road when located and opened, shall be governed and kept in repair as state roads in general are in this state.

SEC. 4. The boards doing county business for said counties, shall make such commissioners a reasonable allowance for their services, to be paid by each county, proportionably to the length of said road in the same.

This act to take effect and be in force from and after its passage.

CHAPTER CCVII.

An Act to provide for the election of a justice of the peace and constable in the town of Millgrove, in Owen county.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the clerk of the circuit court of Owen county, be authorized, and it is hereby made his duty, to order one justice of the peace and one constable to be elected by the qualified voters of Montgomery township in said county in the town of Millgrove.

This act to be in force and take effect from and after its passage.

CHAPTER CCVIII.

An Act for the relief of Henrietta Ames and Charles Dewey.

[APPROVED, JANUARY 26, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled, an act appropriating an estate of escheat for a

free school in the town of Jeffersonville, approved, February 17, 1833, be, and the same is hereby repealed.

SEC. 2. That the state does hereby release and quit claim to Charles Dewey and Henrietta Ames, their heirs and assigns forever, all right she has in and to lot No. 20, in the town of Jeffersonville, in Clark county; to have and to hold to said Charles Dewey, his heirs and assigns, thirty-six feet off of the north end of said lot, and to said Henrietta Ames, her heirs and assigns, the residue of said lot forever.

This act to be in force from and after its passage.

CHAPTER CCIX.

An Act to authorize Samuel L. Olmstead to build a mill dam on Pigeon creek.

[APPROVED, FEBRUARY 7, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That Samuel L. Olmstead, of the county of Vanderburgh, be, and the said Olmstead is hereby authorized to build, erect, and keep up, on Pigeon creek, on the land of said Olmstead, a mill dam of sufficient height for a grist and saw mill: *Provided,* that said dam shall not be of sufficient height to flow the waters of said creek back upon the mill of David Negley, nor of sufficient height to overflow the land of other persons.

CHAPTER CCX.

An Act for the relief of Mary Jane Peck.

[APPROVED, JANUARY 24, 1839.]

WHEREAS, Mary Jane Peck is the owner of a certain tract of land situated in the county of Fayette, and state of Indiana, and which, by the judgment and consideration of the Fayette circuit court, has been declared forfeited to the state of Indiana, for the non-payment of tax; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner of Fayette county, be, and he is hereby directed to receive from the said Mary Jane Peck, her agent, or attorney, the amount of all interest, taxes, and cost, which may be due upon said land, by reason of the non-payment of taxes on the same, and give a certificate of the same.

SEC. 2. It shall be the duty of the clerk of the Fayette circuit court upon presentation to him of the said certificate from the school commissioner, to enter satisfaction upon the records of all judgments against the said lands, forfeiting the same to the state for non-payment of taxes, the said Mary Jane Peck paying him the usual fees for the same.

SEC. 3. After the making of said entry by the clerk as aforesaid, the title to the said land shall vest in the said Mary Jane Peck, in as full and ample a manner, as though the same had not been forfeited. This act to take effect and be in force from and after its passage.

CHAPTER CCXI.

An Act relating to the county seminary of Shelby county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the county commissioners of Shelby county, be, and they are hereby empowered to loan to the trustees of the seminary aforesaid, out of the funds of said county at a rate of interest, not exceeding six per cent., any sum or sums of money that they may consider will not embarrass the county revenue, which loan shall be applied to the payment of the outstanding debts against said seminary.

SEC. 2. It shall be the duty of the trustees of said seminary, when any application is made to them for the use of said seminary building, for the purpose of using the same for school purposes to charge such applicant a reasonable rent for the same, the amount of which shall be determined by a majority of said trustees.

SEC. 3. It shall be the further duty of said trustees to pay into the county treasury all sums of money coming into their hands from any quarter whatever, in liquidation of the loan made in pursuance of the provisions of this act, until the said loan with interest is fully paid, after which the funds of the institution aforesaid shall be applied as heretofore, and the power of the trustees to charge rent for said building shall finally cease.

CHAPTER CCXII.

An Act for the formation of school district number one, in Morgan county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the following district of country in the county of Morgan, shall form and constitute school district number one, in township twelve north, range one east, and a part of township number thirteen, range one east, to wit; that part of township twelve, north of range one east, that lies north of White river and west of White Lick, and east of a north and south line dividing sections three and four, and sections thirty-four and thirty-five in township thirteen, north of range one east; and that the inhabitants of said district be allowed to participate in the school funds of the respective townships from which the said district is taken, in proportion to the number of children therein.

SEC. 2. It is hereby made the duty of the trustees of township twelve, north of range one east, to appoint sub-trustees for the district aforesaid, whose duties it shall be to serve as is provided in the ninth section of the fifth chapter of an act incorporating congressional townships and providing for public schools.

SEC. 3. The citizens of school district number one, shall be governed in all respects by the act to which this is an amendment.

SEC. 4. This act to be in force from and after its passage.

CHAPTER CCXIII.

An Act to provide for the location of the seat of justice of Lake county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Asahel K. Paine of Porter county, Stephen Jones and John M. Lemon of Laporte county, Samuel Witter of St. Joseph county, and Jacob Ellis of Elkhart county be, and the same are hereby appointed commissioners to locate the seat of justice of Lake county, who shall be governed by the provisions of the act entitled "an act to establish seats of justice in new counties," approved, January 14, 1824, except wherein otherwise provided for by this act.

SEC. 2. It shall be the duty of the said commissioners to meet at the place of holding the courts of the county commissioners of said county, on the first Monday of May, 1839, and to proceed to the discharge of their duties: *Provided, nevertheless,* that should said commissioners, or a majority of them, upon a full examination of the premises, deter-

SEC. 2. It shall be the duty of the clerk of the Fayette circuit court upon presentation to him of the said certificate from the school commissioner, to enter satisfaction upon the records of all judgments against the said lands, forfeiting the same to the state for non-payment of taxes, the said Mary Jane Peck paying him the usual fees for the same.

SEC. 3. After the making of said entry by the clerk as aforesaid, the title to the said land shall vest in the said Mary Jane Peck, in as full and ample a manner, as though the same had not been forfeited. This act to take effect and be in force from and after its passage.

CHAPTER CCXI.

An Act relating to the county seminary of Shelby county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the county commissioners of Shelby county, be, and they are hereby empowered to loan to the trustees of the seminary aforesaid, out of the funds of said county at a rate of interest, not exceeding six per cent., any sum or sums of money that they may consider will not embarrass the county revenue, which loan shall be applied to the payment of the outstanding debts against said seminary.

SEC. 2. It shall be the duty of the trustees of said seminary, when any application is made to them for the use of said seminary building, for the purpose of using the same for school purposes to charge such applicant a reasonable rent for the same, the amount of which shall be determined by a majority of said trustees.

SEC. 3. It shall be the further duty of said trustees to pay into the county treasury all sums of money coming into their hands from any quarter whatever, in liquidation of the loan made in pursuance of the provisions of this act, until the said loan with interest is fully paid, after which the funds of the institution aforesaid shall be applied as heretofore, and the power of the trustees to charge rent for said building shall finally cease.

CHAPTER CCXII.

An Act for the formation of school district number one, in Morgan county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter the following district of country in the county of Morgan, shall form and constitute school district number one, in township twelve north, range one east, and a part of township number thirteen, range one east, to wit; that part of township twelve, north of range one east, that lies north of White river and west of White Lick, and east of a north and south line dividing sections three and four, and sections thirty-four and thirty-five in township thirteen, north of range one east; and that the inhabitants of said district be allowed to participate in the school funds of the respective townships from which the said district is taken, in proportion to the number of children therein.

SEC. 2. It is hereby made the duty of the trustees of township twelve, north of range one east, to appoint sub-trustees for the district aforesaid, whose duties it shall be to serve as is provided in the ninth section of the fifth chapter of an act incorporating congressional townships and providing for public schools.

SEC. 3. The citizens of school district number one, shall be governed in all respects by the act to which this is an amendment.

SEC. 4. This act to be in force from and after its passage.

CHAPTER CCXIII.

An Act to provide for the location of the seat of justice of Lake county.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Asahel K. Paine of Porter county, Stephen Jones and John M. Lemon of Laporte county, Samuel Witter of St. Joseph county, and Jacob Ellis of Elkhart county be, and the same are hereby appointed commissioners to locate the seat of justice of Lake county, who shall be governed by the provisions of the act entitled "an act to establish seats of justice in new counties," approved, January 14, 1824, except wherein otherwise provided for by this act.

SEC. 2. It shall be the duty of the said commissioners to meet at the place of holding the courts of the county commissioners of said county, on the first Monday of May, 1839, and to proceed to the discharge of their duties: *Provided, nevertheless,* that should said commissioners, or a majority of them, upon a full examination of the premises, deter-

mine that they would be so trammelled in their proceedings, owing to any of the townships not having been offered at public sale, in which there may be situated one or more places laying claim to the location of the seat of justice of said county, as to prevent their making the location upon terms the most advantageous to the citizens of said county, then and in such case the commissioners hereby appointed shall adjourn for such time as they may deem necessary to remove such obstacle to the proper location of said county seat.

SEC. 3. All acts or parts of acts heretofore passed in relation to the location of the seat of justice of Lake county, are hereby repealed.

This act to be in force from and after its passage.

CHAPTER CCXIV.

An Act to re-locate a part of the state road from Rockville to Covington.

[APPROVED, FEBRUARY 15, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That John Moulder of Parke county be, and he is hereby appointed reviewer to review and relocate that part of the state road from Rockville to Covington, lying between where said road crosses the county road, near Mark Grimes' in section twenty-three, in township seventeen, north of range eight west, and the county line dividing Park and Fountain counties.

This act to be in force from and after its passage.

CHAPTER CCXV.

An Act to repeal the 117th section of an act for establishing certain state roads therein named.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the 117th section of an act entitled "an act establishing certain state roads therein named," approved February 17, 1838, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER CCXVI.

An Act to locate a state road therein named.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That* Richard Commins and William C. Parker are hereby appointed commissioners to locate a state road, commencing on the Marion and Muncietown state road, on the range line between eight and nine; thence running north with said line as near as may be practicable to intersect the Marion and Huntington state road in town twenty-seven, range eight east.

SEC. 2. The commissioners aforesaid shall meet on the first Monday of June next, or some subsequent day, at some point on said road as they may agree upon; and, after taking an oath, shall proceed to locate and mark said road; and the boards doing county business for the counties of Grant and Huntington, shall make such allowance as they may deem reasonable and just; and order the road commissioners of the aforesaid counties to pay the same out of any moneys in their hands for road purposes.

SEC. 3. The boards doing county business for said counties of Grant and Huntington shall each allow and pay the expenses of locating said road, in proportion to the distance of said road in their counties, to be paid as aforesaid.

This act to be in force from and after its passage.

CHAPTER CCXVII.

An Act to repeal an act entitled "an act to attach a part of township No. 19, north of range No. 4 east, to township No. 19 north, of range No. 5 east, and for other purposes."

[APPROVED, FEBRUARY 11, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the act entitled as aforesaid, approved on the seventh day of February, in the year 1835, be, and the same is hereby repealed.

This act to be in force from and after its passage.

CHAPTER CCVIII.

An Act to provide for the repair of the roof of the house on the Governor's Circle.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the treasurer of state is hereby authorized, if, in his opinion, the interests of the state requires to have the roof repaired of the house on the Circle, within the town of Indianapolis, commonly called the Governor's house.

This act to take effect and be in force from and after its passage.

CHAPTER CCXIX.

An Act to repeal an act entitled, "an act to appropriate a part of the three per cent. fund of Jasper county," approved February 17, 1838.

[APPROVED, FEBRUARY 15, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the act entitled, "an act to appropriate a part of the three per cent. fund of Jasper county, is hereby repealed.

This act to be in force from and after its passage.

CHAPTER CCXX.

An Act to legalize certain proceedings of the board of commissioners of Vanderburgh county.

[APPROVED, FEBRUARY 13, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the selection which has been made by the board of commissioners of Vanderburgh county of grand and traverse jurors for the March term of said court next ensuing, is hereby declared and made legal, to all purposes and in every respect.

This act to be in force from and after its publication in the Evansville Journal.

CHAPTER CCXXI.

An act to provide for the survey of a road from Charlottesville, in Hancock county, via Rushville, to the White-water canal.

[APPROVED, FEBRUARY 16, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the board of internal improvement are hereby authorized to detail a company of engineers from any of the public works, on which the services of said engineers are not immediately required, with instructions to survey the route, and report to the next general assembly the practicability and cost of a Macadamized road from Charlottesville in Hancock county, to Rushville in Rush county; thence to the nearest and most convenient point on the White-water canal.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXII.

An Act for the relief of Benoni P. Downes.

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, it has been represented to this legislature that Benoni P. Downes, superintendent of the Clark county asylum, entered into a contract with the board doing county business for said county to keep the said asylum for a term of years; *And whereas,* it appears that many transient paupers have been sent to said asylum, contrary to the anticipations of the said Downes, who was under a settled opinion at the time of taking said asylum, that the law excluded transient paupers from admission into said asylum: *And whereas,* the board doing county business for said county believe that the said Downes is equitably entitled to an additional compensation for keeping said transient paupers, but they have no legal authority to extend the relief; therefore,

Be it enacted by the General Assembly of the State of Indiana, That the board doing county business for the county of Clark, are hereby authorized and empowered to alter, amend, or otherwise change the contract or agreement made with the said Benoni P. Downes, so as thereby to allow to him a fair and reasonable compensation (in addition to his fixed salary) for keeping transient paupers, which have been, or may hereafter be, sent to said asylum by any overseer of the poor for said county: *Provided, however,* that if said board of commissioners are of opinion on full examination, that the salary or allowance under

the contract with said Downes is sufficient to compensate said superintendent for the services performed, then no additional allowance shall be made.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXIII.

An Act to locate a state road in the county of Vigo.

[APPROVED, JANUARY 21, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Edward Rawls and Wylie Bounds be, and they are hereby appointed commissioners to view, mark, and locate a state road, to commence at the town of Urbana, in Vigo county, running by way of John Pierce's to the bridge on the Cross-cut canal; thence with the county road through Herrington's lane, to the town of Terre-Haute.

SEC. 2. The said commissioners shall proceed on the first Monday in April, or some subsequent day after taking an oath faithfully and impartially to discharge the duties enjoined on them by this act, to view, mark, and locate said road, and they shall make a report of the route of said road, and the distance from point to point; a copy of which shall be filed in the office of the clerk of the circuit court of the county of Vigo.

SEC. 3. It shall be the duty of the board doing county business, to order said road to be opened any width not exceeding sixty feet, in the same manner as now is or hereafter may be provided for opening or repairing public highways.

SEC. 4. Should said commissioners die, resign, or be absent, so as to be unable to attend to the business which is the object of this bill, or shall refuse or neglect to locate said road by the first day of June next, it shall be the duty of the board doing county business, to appoint successors who shall be qualified as above.

This act to be in force from and after its passage.

CHAPTER CCXXIV.

An Act to amend an act entitled, "an act to authorize a location of a state road from Salem, in Washington county, to Charlestown, in Clarke county," approved February 1, 1838.

[APPROVED, FEBRUARY 16, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the state road authorized by the act to which this is an amendment, shall

be located in the county of Washington, on the old county road that is now travelled from Salem by the way of Andrew Pitt's, Isaac Thomas' farm, Mrs. Norris', Reuben Lucas', to the line dividing the counties of Clark and Washington; and the said county road in the said county of Washington, is hereby established and declared to be a part of the state road, authorized by the act to which this is an amendment, and the commissioners on the said road shall be governed in all respects by this act as if the same had been a part of the original act authorizing said state road.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXV.

An Act to legalize the sale of certain school lands in Clinton county.

[APPROVED, FEBRUARY 11, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That all and each of the acts of the school commissioner of Clinton county, in making sale of certain lands and town lots, by virtue of an order of the circuit court of said county, at its April term, A. D. 1837, vesting such lands in the state of Indiana, [for the non-payment of taxes] for school purposes, be and the same are hereby legalized.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXVI.

An Act to locate a state road from Angola to the state line, and from the state line to the county seat of De Kalb county.

[APPROVED, FEBRUARY 3, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Erastus Farnham and Cornelius Gilmore, of the county of Steuben, are hereby appointed commissioners to view, mark, and locate a state road, commencing at a point on the state line, at or near the quarter section corner on the north side of section seven, in township thirty-eight, north of range thirteen east, and running thence on the best and most direct route to intersect the Fort Wayne and Cold Water state road at or near the county seat of De Kalb county.

SEC. 2. That Erastus Farnham and Avery Farnham, of the county of Steuben, are hereby authorized to view, mark, and locate a state

road, commencing at Angola, the county seat of Steuben county, [thence] to a point on the state line about eighty rods west of the north east corner of section fifteen, in township thirty-eight, north of range fourteen east.

SEC. 3. The commissioners, aforesaid, may meet at such time and place as they may agree upon, and after taking an oath or affirmation to faithfully discharge their duties, may proceed to run, mark, and locate the roads designated in the first and second sections of this act, taking to their assistance surveyors and the necessary hands; and the boards doing county business in the counties through which said roads may pass, shall make such allowances to said commissioners, surveyors and hands, as shall seem reasonable; to be paid out of any moneys in the treasuries of said counties not otherwise appropriated; each county to pay its proportion of said expense.

This act to be in force from and after its passage.

CHAPTER CCXXVII.

An Act for the relief of John Shelby, collector of the county of Kosciusko, in the year 1836.

[APPROVED, FEBRUARY 11, 1838.]

Be it enacted by the General Assembly of the State of Indiana, That the treasurer [of state] pay to John Shelby, collector of the state and county revenue of the county of Kosciusko, for the year 1836, the sum of three dollars and fourteen cents, it being a balance due said collector on the final settlement of his accounts, as appears from the statement of the auditor of public accounts.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXVIII.

An Act to vacate and sell the Public Square, in the town of Edinburgh, county of Johnson.

[APPROVED, FEBRUARY 3, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the public square in the town of Edinburgh, in the county of*

Johnson, be and the same is hereby declared vacated, and is no longer subject to be used as a public square.

SEC. 2. That William Hunt be, and he is hereby appointed, a commissioner to sell and convey said square. That said commissioner shall give at least twenty days notice of such sale, by posting up written notices thereof in at least five of the most public places in Blue river township, in Johnson county.

SEC. 3. That it shall be the duty of said commissioner to cause said square to be divided into suitable lots, so as to insure the best price therefor, and that he shall sell the same at public out cry, upon a credit of six months, the purchaser giving bond to be approved by said commissioner.

SEC. 4. That the proceeds of such sale shall, by such commissioner, be paid over to the treasurer of the school district in said Blue river township, of which the town of Edinburgh forms a part; to be by said school district appropriated as other funds of said district.

SEC. 5. The said commissioner, before entering upon the duties enjoined by this act, shall give a bond, to be approved by the township treasurer, in the penal sum of one hundred dollars, conditioned for the faithful discharge of the duties enjoined by this act.

This act to be in force from and after its publication.

CHAPTER CCXXIX.

An Act to legalize certain proceedings in Martin county.

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, an election was held at the last August election, in Martin county, for three county commissioners, before any law was in force in that county to authorize such election, and Loyd Wedding, Isaac Hatter and Daniel C. Clark, were supposed to be elected such commissioners, and as such acted for some time; and, whereas, afterwards, in consequence of such difficulty, the associate judges of said county appointed Isaac Hatter, Daniel C. Clark and Martin Stuky, commissioners of said county until the next general election; therefore,

Be it enacted by the General Assembly of the State of Indiana, That all the acts of the said supposed commissioners as such commissioners, until the said appointment, are hereby declared to be legal and valid; and that the said appointment of the said Isaac, Daniel, and Martin, to be commissioners, and all the acts they have done, or which they may do, as commissioners of said county, until the next annual election, are hereby declared to be legal and valid to all purposes whatever.

This act to be in force from and after its passage.

CHAPTER CCXXX.

An Act for the relief of the collector of the revenue of Spencer county.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, it is represented that, owing to sickness, Eli Overton, collector of the county revenue of Spencer county, has not been able to collect and account for said revenue within the time prescribed by law; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That said collector is allowed until the next May term of the county court of said county, to collect and account for said revenue; and his accounting at the said term shall be as legal as if he had settled with said court at the time heretofore prescribed by law.

SEC. 2. This act shall be in force from and after its passage.

CHAPTER CCXXXI.

An Act to provide for the election of a Justice of the Peace in the town of New Washington, in Clark county.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in the county of Clark be, and they are hereby authorized, at their March, or any other session of said board, to order an election for one additional justice of the peace for the township of New Washington, in said county.

SEC. 2. Said justice shall reside and keep his office in the town of New Washington, and his office shall be vacated on his removing from said town.

SEC. 3. The board doing county business shall fix the time and place of holding said election; which shall be governed by the laws regulating the election of justices of the peace.

This act shall be in force from and after its passage.

CHAPTER CCXXXII.

An Act legalizing the proceedings of the commissioners of Whitley county.

[APPROVED, FEBRUARY 15, 1839.]

WHEREAS, by the fourth section of an act entitled, an act to organize the county of Whitley, approved, February 17, 1838, it is ordered and required that the "circuit and other courts of said county" shall be held at the house of James Parrett; and whereas there was no person in said county of that name, and it was meant and intended that said courts should be held at the house of Joseph Parrett a citizen of said county; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the proceedings of the board of commissioners of the county of Whitley, so far as relates to holding their sessions at the house of James Parrett instead of Joseph Parrett from the organization of said county until another place is designated by law, and the same are hereby legalized.

SEC. 2. That the circuit and other courts of said county shall be held at the house of Richard Baughan, or any other place in said county, where said courts may adjourn to, until suitable accommodations can be had at the seat of justice thereof; after which the courts shall be held at the county seat.

This act to be in force from and after its passage.

CHAPTER CCXXXIII.

An Act to locate a state road from the centre of section seventeen, township thirty-seven north, of range six east, to the Goshen and Elkhart state road in Elkhart county.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Ambrose T. Hatch, Jacob Ellis, and Samuel Goodrich of the county of Elkhart, are hereby appointed commissioners, to survey, mark, and locate a state road, commencing at the centre of section seventeen, in township thirty-seven north, of range six east, in the state road leading from the west side of Elkhart county, to the centre of Le Grange county; thence north half a mile; thence west, to the west side of Pine creek; thence, on the most practicable route, by the way of Thomas' ford on the Elkhart river, to the Goshen and Elkhart state road in Elkhart county.

SEC. 2. The commissioners aforesaid, shall meet at such time and

place as a majority of them may agree upon, and, after taking an oath or affirmation, faithfully and impartially to discharge the duties required of them by this act, shall proceed to locate and mark said road, and shall, within twenty days thereafter, cause a report to be filed in the clerk's office of the county of Elkhart, to be recorded by the clerk of said county.

SEC. 3. The commissioners aforesaid shall have power to employ a surveyor, chain carrier, and marker, to lay out said road as proposed by this act.

SEC. 4. The board doing county business in the county of Elkhart, shall make such allowances to the commissioners, surveyor, chain carriers, and marker employed by the commissioners aforesaid, as to them may seem just and reasonable to be paid out of the county treasury. This act to be in force from and after its passage.

CHAPTER CCXXXIV.

An Act to authorize the re-location of a part of a state road therein named, approved, February 6, 1837.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William C. Jones, of the county of Johnson, be, and he is hereby appointed a commissioner, to view, mark, and re-locate so much of the Greenfield and Franklin state road as lies between Hezekiah M'Kinney's and the town of Franklin, in Johnson county.

SEC. 2. It shall be the duty of said commissioner on the first Monday of June next, after being duly qualified to faithfully and impartially discharge the duties enjoined upon him by this act, to proceed to view, mark, and re-locate so much of the aforesaid road as lies between the above named points, and it shall be the duty of said commissioner within twenty days after the re-location of said road, to file a report of the same in the clerk's office of the county aforesaid, and it shall be the duty of the board doing county business for said county at their next session after filing the report of said commissioner, to cause the same to be recorded among the records of said board; and it shall be the duty of said board to cause the aforesaid road to be opened any width not exceeding forty feet, and made agreeably to, and under the provisions of the several acts relating to the opening and repairing public roads and highways.

SEC. 3. The board doing county business for the county aforesaid, shall make such allowance to the aforesaid commissioner as may be reasonable for such necessary services as he may render under the provisions of this act.

This act to be in force from and after its passage.

CHAPTER CCXXXV.

An Act to locate a state road from Muncietown to Camden.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jacob Pendry of Delaware and Samuel Grizzle of Jay county, be, and they are hereby appointed commissioners, to view, mark, and locate a state road from the town of Muncietown, the county seat of Delaware; thence the nearest and best route to Albay in said county of Delaware; thence the nearest and best route to intersect the state road leading from Cambridge city, in Wayne county, to Fort Wayne, in Allen county, at the town of Camden, in Jay county.

SEC. 2. The said commissioners shall meet at the town of Muncietown, on the first Monday of April, 1839, or so soon thereafter as they may think proper, and, after taking an oath, faithfully to discharge their duties assigned them by law, shall proceed to view, mark, and locate said road on the nearest and best ground that can be had between said points; and shall, within thirty days therefrom, cause a report thereof to be filed in the offices of the several clerks, within whose counties said road shall run, the same to be recorded in the record books of said counties within ten days thereafter.

SEC. 3. The commissioners aforesaid, if they deem it expedient, shall employ a surveyor, chain carriers, and markers, to assist in locating said road, and shall keep a correct account of the number of hands employed, and the days occupied in discharging the duties enjoined on them by this act; a copy of which, it shall be their duty to file in the several clerks' offices aforesaid; and by such clerks laid before the board doing county business in said counties, at their next terms.

SEC. 4. The boards [doing] county business in said counties, shall, when the accounts of said commissioners are laid before them, make such order for the payment of the same, as they shall deem just and reasonable, the same to be paid out of the county treasuries of each county, through which the same may run, in proportion to its length in each county.

SEC. 5. It shall be the duty of the boards of commissioners, in said counties, to order said road to be opened any width not exceeding fifty feet; and made agreeably to, and under the provisions of an act for opening and repairing roads and highways.

SEC. 6. Should any vacancy happen, by death, resignation, or otherwise, the board doing county business in the county where the same shall happen, shall fill said vacancy.

This act to be in force from and after its passage.

CHAPTER CCXXXVI.

An Act for the relief of Thomas White.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the school commissioner in the county of Scott be, and he is hereby authorized and required to pay over to Thomas White of said county the sum of three dollars and thirty-two cents; it being the amount paid to said school commissioner by said Thomas White, on thirty acres of land which had been improperly assessed with a tax for the year eighteen hundred and thirty-four, and returned to said school commissioner by the collector of said county.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXXVII.

An Act to change the mode of electing the members of the board doing county business in Perry county.

[APPROVED, FEBRUARY 12, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That hereafter, in the election of any member of the board for doing county business in Perry county, no voters in said county shall have the right of suffrage except such as reside within the commissioner's district, in which the member or commissioner is to be elected.

This act shall take effect and be in force from and after its publication.

CHAPTER CCXXXVIII.

An Act to amend an act entitled "an act authorizing the sale of certain seminary lands in Monroe county," approved, February 4th, 1837.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the second section of the act to which this is an amendment, as provides that the lands specified in said act shall not sell for a less price than the minimum price therein fixed, be, and the

same is hereby repealed: and that the said commissioner shall keep his office open for the entry of said lands at a minimum price of not less than ten dollars per acre. Said lands to be entered and sold upon the same terms in all other respects as provided in the act to which this is amendatory.

This act to take effect and be in force from and after its passage.

CHAPTER CCXXXIX.

An Act making allowances to John Course, for services in applying a part of the three per cent. fund in Fountain county.

[APPROVED, JANUARY 4, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That John Course, of the county of Fountain, be allowed the sum of one dollar and twenty-five cents per day out of the three per cent. fund, that is or may come into the hands of the commissioners of the county of Fountain, and they are hereby directed to pay the above sum to the said John Course, whenever he shall present his account properly authenticated for services required of him under an act entitled "an act to appropriate a part of the three per cent. fund in Fountain county," approved, December 18th, 1837.

This act to be in force from and after its passage.

CHAPTER CCXL.

An Act for the relocation of the seat of justice of Whitley county.

[APPROVED FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Samuel Edsall and A. L. Ballard of the county of Allen, John K. Evans of the county of Adams, Isaac Covert of Wells county, and John Jackson of Elkhart county, be, and they are hereby appointed commissioners to relocate and establish the seat of justice of Whitley county. Said commissioners, or a majority of them, shall meet at the house of Richard Baughan in said county on the first Monday in June next, and after being duly sworn to the faithful discharge of the duties assigned them, shall proceed forthwith to examine and select the most eligible situation in said county, as near the centre thereof as may be

procured on reasonable terms, for the relocation of said seat of justice. Said commissioners to be governed in all respects by the provisions of an act of the General Assembly of the State of Indiana, entitled, "an act to establish seats of justice in new counties," approved, January 14, 1824. And said commissioners, or those in attendance, may adjourn to any other day and for any length of time not exceeding one year from the said first Monday of June next, should they deem that the interest of said county shall require such adjournment, and give the absent commissioners notice of the time and day to which they have so adjourned.

SEC. 2. It shall be the duty of the sheriff of said county of Whitley, to notify the commissioners above named, either in person or by writing, of their appointment, and the time and place appointed for them to meet. And the county commissioners of said Whitley county shall make said sheriff a reasonable compensation for said services, out of any money in the treasury of said county not otherwise appropriated.

SEC. 3. The agent of said county of Whitley shall reserve ten per cent. out of donations or the proceeds of the sales of all lots, and land that may be sold for the use of said county at the said relocated county seat for the use of a county library, which shall be paid over in the same manner as is now provided for by law.

SEC. 4. This act to be in force from and after its passage.

CHAPTER CCXLI.

An Act amendatory to an act entitled "an act authorizing a change of venue in certain cases therein named," approved, January 20, 1838.

[APPROVED, FEBRUARY 5, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the necessary costs and expenses incurred by the county of Putnam on account of the safe keeping of one Joshua Giffing, indicted in the circuit court of the county of Monroe, upon the charges of murder, assault and battery with intent to kill, and assault and battery, and which said cases were removed to the circuit court of the county of Putnam by an act of the legislature, to which this is an amendment, shall be provided for, and paid by the county of Monroe.

SEC. 2. It shall be the duty of the clerk of the Putnam circuit court forthwith to certify the amount of the costs aforesaid (stating each item of said account separately) to the clerk of the court of Monroe county, to be by him laid before the board doing county business in and for the said county of Monroe, whose duty it shall be to make

provision for the payment of the same out of the county treasury of said county: *Provided, however,* that neither the county of Monroe, or Putnam shall be chargeable with any expenses for the safe keeping of the said Giffing, from and after the time of his delivery into the custody of the sheriff of Vigo county, by the sheriff of Putnam county.

This act to take effect and be in force from and after its passage.

CHAPTER CCXLII.

An Act relative to the Perry county seminary funds.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the seminary funds now belonging to said county, or which may hereafter accrue to it, shall be loaned out at interest for no greater length of time than one year, by the trustee, until an amount sufficient accumulates to construct a seminary in such township in said county as the legislature may hereafter provide.

SEC. 2. This act to be in force from and after its passage.

CHAPTER CCXLIII.

An Act to relocate a part of the state road from Lawrenceburgh to Harrison in Dearborn county.

[APPROVED, JANUARY 29, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Stephen Ludlow, Ezra Guard and Isaac Dunn, be, and they are hereby appointed commissioners to relocate that part of the state road leading from Lawrenceburgh to Harrison, commencing on the southwest side of the White-water canal, where said road now crosses the White-water canal near Andrew Morgan's house to the Ohio state line near the residence of Isaac Hayes, and the commissioners above named, will be governed by the act defining the duties of commissioners, and for other purposes passed, and approved February 1st, 1834.

SEC. 2. So soon as said road is relocated, and opened for the convenience of travellers, the old road shall be vacated, and it is hereby made the special duty of every overseer of highways, through whose district the said relocated road may pass, to proceed without delay to

open and keep the same in repair; and on failure, shall be subject to the same penalties that overseers are subject to under the provisions of the several road laws of Indiana.

SEC. 3. The above named commissioners, or a majority of them, shall meet at Lawrenceburgh on the first Monday in February next, or as soon thereafter as they may agree on, and after being duly sworn, shall proceed to the discharge of the duty hereby assigned them.

This act to take effect and be in force from and after its publication in the Indiana Beacon, provided those interested in the alteration of said road, shall pay for said publication.

CHAPTER CCXLIV.

An Act to locate a state road in Wayne county.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William Commons of Wayne county, is hereby appointed a commissioner to view, locate and mark a state road from Centreville in Wayne county, by the way of Jacksonburgh.

SEC. 2. The said commissioner after taking an oath before some justice of the peace, to faithfully discharge the duties required of him by this act, shall employ a surveyor and other necessary assistance, and proceed on the first Monday in April, A. D. 1839, or any subsequent day, to locate and mark the aforesaid road on the nearest and best ground from Centreville to Jacksonburgh; thence to its termination it shall be located in such manner as the board of county commissioners shall direct: *Provided*, that previous to the location of said road the said commissioner shall give notice in the Centreville newspaper by public advertisement, stating at what time he will apply to the commissioners' court for directions for the location of said road.

SEC. 3. That at the first term of the commissioners' court after the location of said road, the commissioner shall file in said court a plat and description of said road, and be allowed a reasonable compensation for his own and his assistant's services in the discharge of the duties committed to him by this act.

This act to be in force from and after its passage.

CHAPTER CCXLV.

An Act to locate a state road in the county of Dearborn.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Lemuel G. Elder, Walter Kerr, and William Williams of the county of Dearborn, be, and they are hereby appointed commissioners to view, mark, and re-locate a state road, commencing at the South Hogan creek bridge, between the towns of Aurora and Wilmington, in Dearborn county; thence up North Hogan creek, passing the farm of William V. Cheek, Amor Bruce, and Millburn's mill; thence to the Lawrenceburgh and Indianapolis state road, near the North Hogan school house.

SEC. 2. It shall be the duty of the above named commissioners to meet on the fourth Monday in May next, or some subsequent day thereafter, at the North Hogan school house, and, after having taking an oath or affirmation faithfully and impartially to discharge their duties, shall proceed to view out and locate a road on the route as described in the first section of this act, having due regard to private property; they shall have power, if the public good requires it, to employ a surveyor and such other assistance as may be deemed necessary in said location.

SEC. 3. It shall be the duty of said commissioners, within thirty days after they have completed the review and location of said road to report the same, and cause it to be filed in the clerk's office in said county; which shall be considered the permanent location of said road.

SEC. 4. If any vacancies shall happen by refusal to serve or otherwise of any of the aforesaid commissioners, it shall be the duty of the board doing county business, on application being made, to fill the same by appointment.

SEC. 5. The board doing county business in the county aforesaid, shall make reasonable compensation to the said road commissioners, and all persons necessarily employed by them, in the aforesaid location, to be paid out of the county treasury.

SEC. 6. All persons through whose land the said road may be located, shall have the right to file his or their remonstrance before the board of county commissioners of Dearborn county for the purpose of having damages assessed; which damages the said board shall cause to be assessed and paid in the same way and manner as is provided for in an act entitled, "an act relating to public roads and highways," approved, February 17, 1838.

This act to take effect and be in force from and after its passage.

CHAPTER CCXLVI.

An Act to change the location of section number eighty-one, in the northern division of the Central canal.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the resident engineer upon the northern division of the Central canal, is authorized and hereby required to alter and change the location of section number eighty-one under his supervision, so as to pass the same around the grave yard through which it now passes.

This act to be in force from and after its passage.

CHAPTER CCXLVII.

An Act to legalize the sale of lots on a part of the reserved township adjoining Bloomington.

[APPROVED, FEBRUARY 16, 1839.]

WHEREAS, by an act of the general assembly of the state of Indiana, entitled, "an act to establish a state seminary, and for other purposes," approved January 20, 1820, the trustees therein appointed to select a site for the state seminary of the state of Indiana, on the reserve township of lands in Monroe county, granted by congress to said state, after having selected such site, did, in pursuance of said act, appoint one James Boreland to lay off and expose to sale one section of said township of land contiguous to the town of Bloomington; *And whereas*, the said agent did, under the direction of said board of trustees, lay off into lots of various sizes, the west half of section four, and the east half of section five in said township, and sold the same in accordance with the provisions of said act, and executed deeds of conveyance to the purchasers thereof; *And whereas*, by a reference to said act, it appears that the said agent or any other person was not authorized thereby to execute such deed of conveyance; for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the acts of the said James Boreland and William Alexander as his successor, as such agent, and the deeds of conveyance by them and each of them made to the purchasers of said lots so sold as aforesaid, under the provisions of said recited act, shall be, and the same are hereby declared to be as legal and valid as though the said agent and the said William Alexander as his successor had been authorized by said act to make and execute said deeds of conveyance, any law or usage to the contrary notwithstanding.*

SEC. 2. *And be it further enacted, That the said William Alexander is hereby appointed agent to make, seal, and execute to any and all purchasers of lots in said section sold in pursuance of said act, and for which deeds have not heretofore been made, deeds of conveyance: Provided, however, that no such deed of conveyance shall be so made until the purchase money for such lot or lots shall be fully paid.*
This act to be in force from and after its passage.

CHAPTER CCXLVIII.

An Act to authorize an additional Justice of the Peace in Jackson township, Fountain county.

[APPROVED, FEBRUARY 9, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the board of county commissioners of Fountain county, be, and they are hereby authorized and required to order an election for an additional justice of the peace, in Jackson township in said county at their next March term. Said justice, so to be elected, shall reside in the town of Jacksonville, in said township and county, and to vacate his office whenever he shall remove from said town.*

SEC. 2. *The said board of commissioners shall fix the time and place of holding said election; and in all respects the said election shall be governed by the laws now in force regulating the election of justices of the peace.*

This act to be in force from and after its passage.

CHAPTER CCXLIX.

An Act more particularly defining the western and southern boundaries of the county of Scott.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the county line defining the western and southern boundaries of the county of Scott, shall hereafter be as follows, any law to the contrary notwithstanding, to-wit: beginning in the main channel of the south fork of the Muscatitack river on the section line dividing sections five and six, in township three, north of range six east, and running thence southwardly upon the said section line to the south-west corner of sec-*

tion twenty-nine, in township two north of the same range, and running thence eastwardly upon said section line two miles to the south-west corner of section twenty-seven; and thence south upon the section line one mile to the township line dividing townships one and two, and running thence eastwardly upon said township line, two miles to the south-west corner of section thirty-six; thence north with said section line one mile to the south-west corner of section twenty-five; thence east with said section line one mile to the range line dividing ranges six and seven; thence north with said range line two miles to the south-west corner of section eighteen, township two, north of range seven east, intersecting at this point the line heretofore dividing the counties of Scott and Clark, running thence east with said county line as heretofore.

SEC. 2. That the county line defining that part of the bounds of Washington and Clark counties adjoining the county of Scott, be, and the same is hereby made to correspond with this act.

This act to take effect and be in force from and after its passage.

CHAPTER CCL.

An Act to legalize the proceedings of the board of commissioners of the county of St. Joseph.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the proceedings of the county commissioners of the county of St. Joseph, on the subject of the purchase and sale of the farm of Prosper Nicholas, in said county, and the order passed by said board relinquishing their right to said farm to said Nicholas, be, and the same is hereby legalized.

SEC. 2. Said county of St. Joseph is hereby released from all liability on account of the purchase of said farm; that the title of said farm shall hereafter vest entirely in said Nicholas as fully and completely as though said sale had never been made, and said commissioners and county shall forever be acquit from all liability on account of the said purchase as fully as though the same had [never] been made.

This act to be in force from and after its passage.

CHAPTER CCLI.

An Act to vacate part of a state road in the county of Wayne.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the state road running parallel and near the Cumberland road, east of Richmond, Wayne county, as lies between the west line of the land of Nathan Charles and the west line of the land of John Smith, be, and the same is, hereby vacated.

This act to take effect and be in force from and after its passage.

CHAPTER CCLII.

An Act to vacate a part of the town of Milford, in the county of Kosciusko.

[APPROVED, JANUARY 22, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the town of Milford, in the county aforesaid, laid out by Aaron M. Perine, as lies east of James' street, and so much of said town as lies west of Henry street, be, and the same is hereby vacated.

This act to be in force from and after its passage.

CHAPTER CCLIII.

An Act to legalize the acts of the Clerk of Dubois county.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, doubts have arisen whether the election of Simon Morgan, as clerk of the Dubois circuit court, (which election was held on the first Monday of August, 1831,) was legal; and, whereas, serious litigation and great embarrassment may result from these doubts, highly prejudicial to the people of Dubois county; therefore,

Be it enacted by the General Assembly of the State of Indiana, That all acts of the said Simon Morgan, performed by him as clerk of Dubois county, which have been performed according to law, be, and the same are hereby legalized, as fully and completely as though said election was strictly legal.

This act to take effect and be in force from and after its passage.

CHAPTER CCLIV.

An Act to change the name Parkersburg, in Montgomery county, to Faithville.

[APPROVED, FEBRUARY 15, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the name of the town of Parkersburg, in Montgomery county, and state of Indiana, shall hereafter be called and known by the name of Faithville, in all public transactions whatsoever; Provided, however, That this change shall in no way affect any contract heretofore made, or any private or public rights.

This act to take effect and be in force from and after its passage.

CHAPTER CCLV.

An Act to repeal an act, entitled, "an act to authorize the mutual transfer of certain school funds between the townships of Eel and Noble, in Cass county," approved, February 6th, 1837.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the act, entitled, an act to authorize the mutual transfer of certain school funds between the townships of Eel and Noble, in Cass county, approved, February 6th, 1837, be, and the same is hereby repealed.*

SEC. 2. *This act to take effect and be in force from and after its publication in either the Logansport Telegraph or the Logansport Herald, being public newspapers printed in the town of Logansport, and county of Cass.*

CHAPTER CCLVI.

An Act supplemental to an act for the benefit of Catharine Falkner, approved, February 6th, 1839.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That so much of the act to which this is supplemental, as vests more*

than one half of the estate of Patrick Donohue, deceased, named in said act, in the said Catharine Falkner, be, and the same is hereby repealed.

SEC. 2. *One half of the estate aforesaid, shall be, and the same is hereby vested, in the children of the said Catharine, who are now living.*

SEC. 3. *The administrator of the estate aforesaid, shall pay over one half of said estate to Catharine Falkner, in the same manner as is prescribed for him to pay over the whole of said estate to the said Catharine, in the act to which this act is supplemental. The said administrator shall pay over the balance of said estate to the legal guardian or guardians, or trustee or trustees, which may be hereafter appointed by the probate court of said county, and take said guardians, or trustees receipt therefor; which receipt, together with the receipt of said Catharine Falkner, aforesaid, shall be a full and sufficient voucher for said administrator, on his final settlement of said estate with the probate court of the county of Switzerland, aforesaid.*

SEC. 4. *The amount of the estate aforesaid, which by this act is set apart and vested in the children of the said Catharine, shall be loaned out at interest for the benefit of said children, in the same manner and under the same restrictions and regulations, as is provided for the management of the estate belonging to minor heirs in other cases.*

SEC. 5. *So much of the act to which this is supplemental, as may come within the purview of this act, shall be, and the same is hereby repealed.*

This act to take effect and be in force from and after its passage.

CHAPTER CCLVII.

An Act authorizing an additional Justice of the Peace in White River township, in Hamilton county.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the clerk of the circuit court of Hamilton county, as soon as practicable after the taking effect of this act, to order the election of one additional justice of the peace in White river township, who shall reside and hold his office either in the town of Woodville or in the town of Strawtown, in said township.*

SEC. 2. *That said election, when so ordered, shall be at the usual place of holding elections in said township, and conducted in every respect as other township elections are conducted.*

This act to take effect and be in force from and after its passage.

CHAPTER CCLVIII.

An Act to provide for the election of a Justice of the Peace in the town of Lockport, in Vigo county.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of county commissioners of Vigo county be, and they are hereby authorized, at their next term following the passage of this act, to order one justice of the peace to be elected in the town of Lockport, in Riley township, in said county, in addition to the two justices of the peace already apportioned to said township.

SEC. 2. The said board of commissioners shall fix the time of holding said election, and in all other respects the said election shall be governed by the laws now in force regulating the elections of justices of the peace.

This act to be in force from and after its passage.

CHAPTER CCLIX.

An Act to vacate a part of Cayuga Alley, in that part of the town of Indianapolis laid out by John Wood.

[APPROVED, FEBRUARY 16, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That that part of Cayuga alley running east and west that lies east of Erie alley, running between lots number six, seven, eight, nine, and five, in block number two, in the town of Indianapolis, as laid out by John Wood, be, and the same is hereby vacated.

This act to be in force from and after its passage.

CHAPTER CCLX.

An Act to authorize the Circuit Court of Hamilton county to change the venue in a certain case therein named.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the circuit court of the county of Hamilton be, and the same is hereby authorized and required, to change the venue in a certain case

now pending and undetermined in said court, wherein the state of Indiana is plaintiff, and Salathiel Carter and Lemuel Carter are defendants, on an indictment for arson, to either the circuit court of Boone county, or the circuit court of Marion county, at the election of said defendants; *Provided,* That application be personally made therefor by said Salathiel Carter and Lemuel Carter, on the first day of the next term thereof, to said circuit court of Hamilton county, for said change, and not otherwise.

SEC. 2. On such change of venue being taken, the circuit of the county to which the same is taken, shall have the same jurisdiction to try said cause as if the supposed offence in said indictment mentioned, had been committed by the said defendants, or either of them, in the county to which said change of venue may be taken. And also full power and authority to summon and recognize witnesses, and to do and perform all other things proper and necessary for the trial of said cause.

SEC. 3. The papers in said cause shall be forwarded by the clerk of the Hamilton circuit court, to the clerk of the circuit court to which said change of venue may be taken, after the same shall have been taken, in the same manner and under the same regulations, as are prescribed in the act, entitled, "an act prescribing the mode of changing the venue," approved, January 23, 1824.

This act to be deemed a public act, and to be in force from and after its passage.

CHAPTER CCLXI.

An Act for the relief of the heirs of William Huddleston, Thomas Huddleston, and Robert Huddleston.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the estate and interest of the state of Indiana, in any lands, situated in any county in said state, of which the said William, Thomas, and Robert Huddleston, late of Dearborn county, deceased, died seized, acquired by escheat of the same, is hereby released to, and vested in such persons, being inhabitants of the United States, as would take the same, by devise, descent, or in right of dower, if the said deceased persons, and the persons hereby authorized to take, had been native citizens of this state.

SEC. 2. The persons taking under this act shall take estates of the same nature and extent, as they would have taken, if they, and the said William, Thomas, and Robert Huddleston had been native citizens of this state.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXII.

An Act to provide for the erection of a bridge over the Big Vermillion river.

[APPROVED, FEBRUARY 14, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the board doing county business in Vermillion county, as soon as in their opinion, a sufficient sum has been subscribed, to erect a permanent bridge, with stone abutments, over the Big Vermillion river; together with the sum of one thousand dollars, appropriated for that purpose by the ninth section of an act entitled "an act to appropriate to the several counties in this state, a part of the three per cent. fund," approved, February 8, 1836, to proceed to locate and establish said bridge at such point or place, as shall be designated by the subscribers: *Provided*, that if subscriptions should be raised for the erection of said bridge, at more than one point or place each with a sufficient sum subscribed, together with the aforesaid thousand dollars, to erect said bridge, it shall then be the duty of the board to locate said bridge at such point as they may deem most conducive to the public good.

SEC. 2. When such location is made, it shall be the duty of the board, to put under contract the building of said bridge, and shall cause the commissioner appointed to superintend the application of the three per cent. fund in said county, to pay to their order the said sum of one thousand dollars to such contractor or contractors, and at such time as they may deem proper to aid in the construction of said bridge: *Provided*, that the said board shall have power to authorize and cause to be loaned the said thousand dollars at an interest of not less than eight per cent. per annum, and for such periods as they may deem advisable, not exceeding twelve months at any one time.

SEC. 3. The board shall have power to collect all moneys subscribed for the erection of said bridge, and to do and perform all that may be necessary to carry into full and complete effect, the object contemplated by this act.

SEC. 4. That so much of the act entitled, "an act to appropriate to the several counties in this state, a part of the three per cent. fund," approved, February 8, 1836; and so much of the act entitled, "an act to locate a bridge, and re-locate a part of a certain state road in Vermillion county," approved, February 2, 1837, as contravenes the provisions of this act be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXIII.

An Act to amend an act entitled, "an act to appropriate the three per cent. fund in certain counties therein named," approved February 4, 1837.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sum of three hundred dollars out of the first money of the three per cent. fund, which are now due and unappropriated, or which may hereafter become due to Monroe county, be, and the same is hereby appropriated to the construction of the bridge, now erecting over Salt creek, at the town of Fair Fax, in said county; said amount of money, together with three hundred dollars heretofore appropriated to the same purpose, shall be expended under the joint direction of to the same purpose, shall be expended under the joint direction of George Finley, a commissioner heretofore appointed, and Silas Woodward, who shall severally qualify themselves in the same manner, and shall do and perform all the duties required of them in the same manner (as near as may be) as are required of the commissioners in the act to which this is amendatory.

SEC. 2. That William Ellet be, and he is hereby appointed a commissioner in the place of Jonathan Nichols, deceased, who is named in an act entitled "an act to appropriate the three per cent. fund in certain counties therein named," approved, February 4, 1837; and the said William Ellet shall qualify himself in the same manner, and do and perform all the duties enjoined upon the said Jonathan Nichols, and Henry Burkey in the aforesaid act: *Provided, however*, that it shall be the duty of the said William Ellet and Henry Burkey shall [to] expend upon the Beanblossom bridge on the state road, so much of the first money out of said appropriation, made for the improvement of said road, as may hereafter come into their hands, as may be necessary to put said bridge in such repair as will accommodate the travelling public; any thing in the original act making said appropriation to the contrary notwithstanding.

SEC. 3. That the board doing county business in and for Monroe county, be, and they are hereby authorized and required to hear and determine any charges, which may be preferred against any commissioner now by law authorized to expend any moneys of the three per cent. fund in said county, to any object in any of said laws named: *Provided, however*, that said charges shall be exhibited in writing particularly setting forth each and every charge, and signed by at least three respectable legal voters of said county; and if, upon a full and fair investigation of said charges so as aforesaid set forth, the board shall be of opinion, that said commissioner or commissioners shall be guilty of malfeasance, misfeasance or nonfeasance in office, they shall remove said commissioner or commissioners from office, and appoint others in their stead; who shall qualify himself or themselves in the same manner, and do and perform all the duties, which were enjoined

upon the commissioner or commissioners so removed from office; and in order to enable the said board to determine the truth of said charges, and the commissioner or commissioners to defend against the same the said board shall cause such witnesses as they or the defendants may demand to be summoned to appear before them and give evidence.

This act to be in force from and after its passage.

CHAPTER CCLXIV.

An Act concerning Lost creek.

[APPROVED, FEBRUARY 16, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That the county commissioners of the county of Vigo, are hereby authorized to appoint a commissioner to superintend the draining of Lost creek, in the place of Jacob Burnap, deceased.

This act to be in force from and after its passage.

CHAPTER CCLXV.

An Act to change a part of the Knightstown and Bluntsville state road.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That the state road leading from Knightstown to Bluntsville is hereby changed from a point where the same crosses the south line of section ten, of township eighteen, of range 11 east, so as to pursue said section line east to the south east corner of said section, thence north on the east line of said section to where it intersects the old location.*

SEC. 2. *So much of the former location as lies between the points above named is hereby vacated.*

This act to be in force from and after its passage.

CHAPTER CCLXVI.

An Act for the benefit of George Harland.

[APPROVED, JANUARY 23, 1839.]

WHEREAS, it is represented to the General Assembly of the state of Indiana, that George Harland, an alien who has resided for about four years last past, in the county of Cass, in this state, has become the purchaser of a considerable portion of real estate, in said county of Cass, without previously having manifested by his declaration a *bona fide* intention of becoming a citizen of the United States; and whereas doubts have arisen whether the said George Harland under the existing laws of the land is capable of selling and making legal conveyances to such real estate; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That it shall be lawful for the said George Harland to grant, bargain, sell, transfer, alien, and convey any and all lands, tenements, and hereditaments of which he may be seized in fee or otherwise whatsoever, within this state to the same extent that he might do if he had been a citizen of the United States at the time of such purchase.*

SEC. 2. *All lands which may have been sold by the said George Harland at any time prior to the passage of this act to any citizen of the United States and by him conveyed to such purchaser is hereby declared to vest in such purchaser, the same title to said land that would have vested in said purchaser, by such conveyance if the said George Harland had been a citizen of the United States at the time of such sale or conveyance, any law to the contrary notwithstanding.*

This act to be in force from and after its passage.

CHAPTER CCLXVII.

An Act to locate a state road from the Ohio state line, to Newport in Wayne county.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana, That Isaac F. Wood of the county of Randolph, and Micajah Weasner of the county of Wayne, be, and they are hereby appointed commissioners to view, mark, and locate a state road, commencing at the state line in Randolph county, where the Piqua and Greenville state road terminates, thence in the same direction of said road, until it intersects the Fort Wayne road, where the same or as near as may be, where said road crosses the Wayne and Randolph county lines, from*

thence on said road to the mouth of Micajah Morgan's lane; thence on the nearest and best route to Newport in the county of Wayne.

SEC. 2. Said commissioners shall proceed, on the first Monday in May next, or on some subsequent day, after taking an oath faithfully and impartially to discharge the duties enjoined upon them by this act, shall proceed to view, mark, and locate said road; and it shall be the duty of said commissioners to make a report of said road and file a plat of the same in each of the clerks' offices of the counties of Randolph and Wayne.

SEC. 3. It shall be the duty of the board doing county business to order said road opened any width not exceeding sixty feet; and said boards doing county business in the counties through which said road passes, shall divide the expenses of locating said road in proportion to the distance which said road passes through each county; and shall also allow said commissioners such compensation for their services as to them may seem reasonable.

This act to be in force and take effect from and after its passage.

CHAPTER CCLXVIII.

An Act to locate a state road from South Bend to Lafayette.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That William S. Vail, of Saint Joseph, and Grove Pomroy, of Marshall, and John Pearson, of Pulaski county, be, and they are hereby appointed commissioners to locate a state road, commencing at South Bend, in St. Joseph's county; thence to North Liberty, in said county; thence to Carmel, in the county of Stark; thence on the nearest and most practicable route to Monticello, via Winnamack.

SEC. 2. That said commissioners of St. Joseph and Marshall counties shall each locate so much of said road as may pass through the counties in which they severally reside; the commissioner of St. Joseph, commencing said location first; then to be continued by the commissioner of Marshall county through the county of Stark, to the county line of Pulaski, in a direction to the town of Winnamack; then the commissioner of Pulaski shall proceed to locate the balance of said road; and the last two miles, next to Monticello, shall be ninety feet wide. That said commissioners shall be governed in all respects by the act defining the duties of commissioners appointed to locate state roads, approved, February 1, 1834, except so much thereof as is inconsistent with the provisions herein contained.

SEC. 3. That said commissioner of the county of St. Joseph, on the first Monday of June next, or on any subsequent day thereafter he

may determine on, after taking an oath faithfully to discharge the duties assigned him, shall proceed to locate so much of said road as passes through the county of St. Josephs. When said road shall have been located through the county of St. Joseph as aforesaid, then the commissioner of Marshall county, shall, after being qualified as above, proceed to locate so much of said road as lies in Stark county. When this shall have been done, then the commissioner of Pulaski county, shall, after being qualified as above, [proceed] to locate the balance of said road in Pulaski and White counties.

SEC. 4. And it shall be the further duty of the commissioner of Pulaski county, to locate a state road from some point on the road from the town of Carmel to Winnamack; thence to Plymouth; and shall be governed in all respects as above, in discharging the duties assigned him by this section.

This act to be in force from and after its passage.

CHAPTER CCLXIX.

An Act amendatory of an act entitled "an act providing for a more uniform mode of doing township business in the several counties therein named," approved, February 17, 1838.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the eighteenth section of the act entitled, "an act providing for a more uniform mode of doing township business in the several counties therein named," approved, February 17, 1838, be, and the same is hereby amended, by adding Fulton county thereto.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXX.

An Act relative to an additional justice of the peace in Harrison township in Clay county.

[APPROVED, FEBRUARY 16, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board doing county business in Clay county are hereby authorized, and it is made their duty, to order an election for an additional justice of the peace in Harrison township in said county, whenever they shall be satisfied by petition or otherwise, that a majority of the citizens of said township are desirous of the same.

SEC. 2. The said election, when ordered, shall be governed in all respects by the laws regulating the election of justices of the peace. This act to be in force from and after its passage.

CHAPTER CCLXXI.

An Act to legalize the proceedings of the president and trustees of the Morgan county seminary.

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That the meeting and organization of the board of trustees of the Morgan county seminary on the 25th day of December, in the year of our Lord one thousand eight hundred and thirty-eight, be, and the same is hereby declared to be as legal and valid to all intents and purposes, as if the said meeting had been on the first Monday in February in the year of our Lord one thousand eight hundred and thirty-nine, or on some subsequent time, and as if the whole number of persons named as trustees in the act of incorporation had been present at the organization of the board.

SEC. 2. This act to be in force from and after its passage.

CHAPTER CCLXXII

An Act to attach the quarter of township thirty, north of range four east, to Fulton county.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That sections number one, two, three, ten, eleven, twelve, thirteen, fourteen and fifteen, in township thirty, north of range four east, now forming a part of Kosciusko county, be, and the same are hereby attached to the county of Fulton, for the purpose of organizing congressional township schools in said township, and for no other purposes whatsoever.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXXIII.

An Act to provide for an additional Justice of the Peace for the south-east township, in the county of Orange.

[APPROVED, FEBRUARY 18, 1839.]

Be it enacted by the General Assembly of the State of Indiana, That there shall be one additional justice of the peace, elected by the qualified voters of South-east township in Orange county, who shall reside at or near the town of Reallen [Reallema] in said township, and shall be commissioned and governed in every respect as other justices of the peace in this state.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXXIV.

Act Act to amend an act entitled, "an act to authorize the sale of certain school lands therein named, and for other purposes," approved January 1, 1838.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That Milton M'Phetridge, school commissioner of Monroe county, shall be, and he is hereby authorized and empowered to appoint a deputy under him for the purpose of receiving any moneys, which may be due him, by virtue of the provisions of the act to which this is an amendment, or which may hereafter become due, and payable to him in the manner aforesaid; and also that the successor in office of the said Milton M'Phetridge may also appoint a deputy under him for the purpose aforesaid.

SEC. 2. That the said Deputy shall have full power and authority to do and perform all and singular the acts which the said M'Phetridge might or could do, in and about the discharge of his duties required in the act to which this is amendatory, and the acts and doings of said deputy shall be binding upon said M'Phetridge, so far as the same are done in good faith.

SEC. 3. The said deputy, before entering upon the discharge of his duties, shall give bond and security to the satisfaction of the said Milton M'Phetridge in the penal sum of three thousand dollars; said bond to be conditioned for the faithful discharge of his duties; said bond to be made payable to the said Milton M'Phetridge, school commissioner as aforesaid, and for any breach thereof, or for any failure to comply with the duties enjoined upon him by this act, or the one to which it is amendatory said deputy shall be liable on his bond by action of debt or assumpsit in any court having competent jurisdiction.

tion for so much as the said M'Phetridge, or his successor in office may prove to have been sustained: *Provided, however*, that one recovery shall not be a bar to an action for any damages, which may be proven to have been suffered on any other account than upon the one which a former recovery has been obtained.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXXV.

An act to provide for the election of a Justice of the Peace, in the town of Montezuma, in Parke county.

[APPROVED, FEBRUARY 15, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the board of justices of Parke county, at their first meeting after the passage of this act, be, and they are hereby authorized and required to order an election for an additional justice of the peace, in Reserve township in said county, who shall reside and hold his office in the town of Montezuma, and shall vacate the said office whenever he removes from said town.

SEC. 2. The said board of justices shall fix the time and place of holding said election; and in all other respects the said election shall be governed by the laws now in force regulating elections of justices of the peace.

SEC. 3. It shall be the duty of the sheriff of Parke county to give notice of the time and place as fixed by the said justices, by posting up written notices in two public places in said township, for at least ten days before the time of such election takes place.

SEC. 4. Such justice of the peace, when elected and commissioned, shall take the oath of office and give bond as required by law, and shall have the same powers and jurisdiction, in all respects, that other justices of the peace have, by the laws of this state, and shall form one of the board of justices for said county of Parke.

SEC. 5. The said justice shall, in a reasonable time after his election, demand and receive from John Moulder, esq., a justice of the peace for Reserve township, in said county, all the dockets that said Moulder received from Eliphalet Allen, esq., as successor in office to said Allen, and may demand and receive all dockets that said Moulder was entitled to as such successor to said Allen, and shall have all jurisdiction over the same, when so received, that the said Moulder would have had under the laws of this state, if this act had not been passed.

This act to take effect and be in force from and after its passage and publication in the Indiana Democrat.

CHAPTER CCLXXVI.

An Act to repeal an act entitled, "an act relative to taverns and tavern-keepers, in Vermillion county."

[APPROVED, FEBRUARY 12, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled, "an act relative to taverns and tavern-keepers in Vermillion county," approved February 17, 1838, be, and the same is hereby repealed.

This act to take effect and be in force from and after its passage.

CHAPTER CCLXXVII.

An Act relative to injury done the public works by the freshet of January, 1838.

[APPROVED, FEBRUARY 9, 1839.]

WHEREAS, the last Legislature did pass a joint resolution for the relief of certain contractors on the Wabash and Erie canal, who sustained loss by the freshet in January, 1838, and said joint resolution, though having received the sanction of both branches of the Legislature, was not presented to the governor for his approval and signature; the relief, therefore, contemplated by said joint resolution, has not been afforded; for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That the acting commissioner, on the Wabash and Erie canal, is hereby directed to cause an estimate to be made by the resident engineer, having charge of the work on said canal, which was injured by the said freshet of January, 1838, (as provided in the joint resolution above referred to,) taking for his guide the estimates made at the time by the resident engineer then in charge of the works: and so far as it shall be ascertained by said commissioner, that unavoidable losses have been sustained by contractors, occasioned by said freshet, by washing away of embankments, or any of the structures, or the materials designed for the same, the said acting commissioner is hereby directed to pay to each of said contractors the amount of his or their losses, as herein directed to be estimated and ascertained.

This act shall be in force and take effect from and after its passage.

CHAPTER CCLXXVIII.

An Act concerning a school district in Dearborn county.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana,* That school district, number 3, in Congressional township number 6, range number 1 west, in Dearborn county, Indiana, shall hereafter consist of the same territory as constituted said district in the year 1831, at the time in said year when the inhabitants of said district completed their stone school house.

SEC. 2. So soon as this law shall take effect, said district shall be organized as provided for in the first section of this act, and the township clerk of said Congressional township number 6, shall appoint three district trustees in said district, or such number as may be necessary to fill all vacancies; which trustees, so appointed as aforesaid, shall hold his or their offices until the next regular election for trustees, as provided for in an act, entitled, "an act incorporating Congressional townships and providing for public schools therein," approved, Feb. 17th, 1838.

This act to take effect and be in force from and after its passage.

MEMORIALS, JOINT RESOLUTIONS, &c.

CHAPTER CCLXXIX.

A Memorial and Joint Resolution on the subject of the Cumberland Road.

[APPROVED, JANUARY 21, 1839.]

To the honorable Senators and House of Representatives of the United States in Congress assembled.

Your memorialists, the General Assembly of the State of Indiana, respectfully represent, that the Cumberland road through this state is often in a condition, in certain points, impassible, even by the mails of the United States, as the road has not been graded and bridged on the whole line. Believing you are perfectly aware of the importance of this great national avenue, on which the principal mails of four western states, and two territories, are directly dependent, and the temporary bridges that have been built are in a state of decay and falling down, and unless permanent ones are erected in their place, an unnecessary expense must be incurred in rebuilding them, or the traveller driven measurably from the road. We add further, there is a large quantity of rock hauled to different points, and much of it dressed ready to be put up, and timber prepared to build bridges, which is going to decay, and will be lost unless put up. We represent that true economy and a just regard to the interest of the government, require that the road be graded, bridged, and secured from waste, by turbing and paving the deep cuts, fills, and gutters, on the whole line, as speedily as the nature of the case will admit, having a just regard to economy. By putting the road in this condition, it would greatly accommodate a large concourse of travelling, which is regularly going when the road is in a condition that it can conveniently be travelled; and that a dense population is settled upon this thoroughfare, and the adjacent country is dependent upon it to take off their surplus produce; and we specially request that the superintendent on this road be requested to adopt the plan here requested.

Be it resolved by the General Assembly of the State of Indiana, That our senators and representatives in Congress be requested to urge a liberal and speedy appropriation on the Cumberland road in this state, and that they cause to be laid before each branch of Congress, a copy of this memorial and joint resolution.

Resolved, That the proposition made by the Honorable John Tipton, in the Senate of the United States, December 7th, 1838, which proposes to make an appropriation sufficient to complete the Cumberland road to the Mississippi river, or to Jefferson City, Missouri, the appropriation, when made, to be paid over to the several States within whose limits the road is situated, in annual instalments, and discharge the general government from any further appropriations, provided the States have authority to collect tolls on said road sufficient to keep the same in good repair, after its completion, &c., fully meets the approbation of this General Assembly.

Be it further resolved, That the Governor of this state be requested, to transmit a copy of this memorial and joint resolution to each of our senators and representatives in Congress.

CHAPTER CCLXXX.

A Joint Resolution relative to the early completion of that part of the Wabash and Erie canal lying within the state of Ohio.

[APPROVED, FEBRUARY 14, 1838.]

WHEREAS, the opening of a water communication between Lake Erie and the Wabash valley, has ever been viewed as an object of the greatest consequence to the country at large, as well as to this state, for the want of which the growth and prosperity of the western states are now seriously retarded; and, whereas, it appears from the report of the board of internal improvement, that 90 miles of the Wabash and Erie canal, within this state, are now navigable, and that the whole distance from the east line of the state to Lafayette, a distance of 140 miles, will probably be finished and ready for use by the close of the present year; and, whereas, there is reason to apprehend, that the anticipated usefulness of this work will be delayed for some time, by the unfinished state of the eastern division of the canal within the state of Ohio; and, whereas, it is believed that any extra expense which might result to the state of Ohio, from a more vigorous and rapid prosecution of the work, would be fully repaid by the earlier receipt of tolls which would commence immediately upon the completion of the canal, while the general interests of the country, and particularly of Indiana, would be greatly promoted thereby; and, whereas, the expense of constructing said division of the canal is not borne exclusively by the people of Ohio, but is paid chiefly, if not wholly from the proceeds of the grant of public land, the common property of the people of the United States; therefore,

Resolved by the General Assembly of the State of Indiana, That it be respectfully submitted to the Legislature of Ohio, whether a more

energetic prosecution of that part of the Wabash and Erie canal under the control of that state, is not called for in view of the great commercial interests of the country dependent upon her action, and in common justice towards the inhabitants of the extensive region of country in Indiana and Illinois, whose trade and intercourse with Lake Erie is at present almost wholly prevented.

Resolved, That the Governor of this state transmit a copy of the foregoing resolution to the Governor of Ohio, with the request that it be laid before, and urged upon the attention of the Legislature of that state.

CHAPTER CCLXXXI.

A Memorial and Joint Resolution on the subject of the New Albany and Mount Carmel Rail Road.

[APPROVED, JANUARY 23, 1839.]

WHEREAS, the construction of a rail road has been authorized by the state of Indiana, between New Albany and a point on the Wabash river, opposite Mount Carmel, (Illinois;) and, whereas, this work will unite with many others, but more especially the Charleston, South Carolina, and the Lexington and Louisville rail road, at their termination at the latter place; and, whereas, a rail road is now being constructed from Mount Carmel, Illinois, to Alton, and St. Louis, Missouri; presenting, as it does, one continuous and direct route from Charleston, South Carolina, to St. Louis, Missouri; and, whereas, the navigation from Louisville (Ky.) to the mouth of the Ohio river, has been suspended for nearly one half of the present year, producing great embarrassment to the commercial engagements of our merchants and tradesmen, and causing, from the scarcity of the supply of the common necessities of life, a heavy tax upon our citizens generally; and, whereas, the navigation from St. Louis to New Orleans, and their intermediate commercial points upon the Mississippi river, is scarcely ever obstructed by drought; and, whereas, the completion of the proposed work, within the limits of this state, would be of great utility, as well in a national point of view, as to those deeply interested in the navigation of the Ohio river; therefore,

Be it resolved by the General Assembly of the State of Indiana, That our senators and representatives be requested, to use their aid and influence in the procurement of the passage of a law in the Congress of the United States, providing for the donation or pre-emption of lands for the purpose of aiding and securing the early commencement and completion of the contemplated work within this state.

Be it further resolved, That his excellency, the Governor, be requested to furnish a copy of this memorial and joint resolution to each of our senators and representatives in Congress.

CHAPTER CCLXXXII.

A Joint Resolution to authorize a loan of the Sinking Fund.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, the Wabash manual labor college and teachers' seminary at Crawfordsville, established by the exertions and liberality of individuals, with buildings and other property worth at least \$35,000, was, on the 23d of September last, destroyed by fire, by which a loss of \$15,000 was sustained; and, whereas, since that time more than \$7,000 has been subscribed by citizens of the state to repair the loss, and the institution is fully in operation, with a president, three professors, and more than 60 students, many of whom will be teachers of common and other schools; and, whereas, the institution needs for the present a temporary loan to pay off debts which now embarrass it; and, whereas, the profits realized by the stock first subscribed by the state in the bank, are appropriated by the charter for common school education, and aid now given to that object must be far more important than if delayed to a future time; therefore,

Resolved by the General Assembly of the State of Indiana, That it shall be lawful for the commissioners of the sinking fund, to make a loan of the funds in their charge, not exceeding eight thousand dollars, for a term not exceeding five years, to the Wabash manual labor college and teachers' seminary, at Crawfordsville, at the rate of interest which others pay interest, payable each year in advance, whenever indisputable real security shall be offered for the payment of the said loan, with interest thereon, as herein authorized.

This resolution to be in force from and after its passage.

CHAPTER CCLXXXIII.

A Joint Resolution in relation to the Supreme Judges of this State.

[APPROVED, JANUARY 28, 1839.]

SEC. 1. *Be it resolved by the General Assembly of the State of Indiana,* That the judges of the supreme court be, and they are hereby requested, to prepare a collection of all the general laws and statutes of the state, arranged under their proper heads, and submit the same to the Legislature on or before another revision may be necessary; and that they be requested at the same time, to suggest such alterations and additions as they may deem necessary, as amendatory to said general statutes.

This joint resolution to take effect and be in force from and after its passage.

CHAPTER CCLXXXIV.

A Joint Resolution relative to a steam boat canal around the Falls of the Ohio.

[APPROVED, JANUARY 21, 1839.]

WHEREAS, it is represented to the General Assembly, that a steam boat canal around the Falls of the Ohio river, on the Indiana side, sufficient for the passage of the largest class of steam boats, would add greatly to the convenience and advantage of all persons navigating said river, and that great water power would be created by the making of said canal, advantageous for an armory or other machinery; Therefore,

Resolved by the General Assembly of the State of Indiana, That our senators be instructed, and our representatives requested, to use their best exertions to procure from Congress the passage of a law, directing the making of the said canal by the government, or a donation either in land or money, to be applied to the construction thereof, under the direction of the state of Indiana; and that a copy of this resolution be forwarded to each of our senators and representatives in Congress.

CHAPTER CCLXXXV.

A Joint Resolution of the General Assembly of the State of Indiana, relative to the duties of Enrolling Secretary of the Senate and Clerk of the House of Representatives.

[APPROVED, DECEMBER 18, 1838.]

Be it enacted by the General Assembly of the State of Indiana, That it shall be the duty of the secretary of state to procure [paper,] of a fine and durable quality, of vellum size, and cause the same to be ruled with marginal feint lines, upon which it shall be the duty of the enrolling secretary of the Senate and clerk of the House of Representatives, carefully, and in a neat and round hand, to enroll all laws passed by the present General Assembly. It shall be the duty of the secretary of state to cause such laws to be neatly and substantially bound in one volume, and to add at the end thereof a full and complete index.

This joint resolution to take effect and be in force from and after its passage.

CHAPTER CCLXXXVI.

A Memorial and Joint Resolution of the State of Indiana.

[APPROVED, FEBRUARY 5, 1839.]

WHEREAS, a direct line of mail stages from Indianapolis to Evansville, via Martinsville, Gosport, Spencer, Bloomfield, Washington and Petersburg, would be of great public utility, passing as it would through a section of Indiana rapidly increasing in population, and now without any thing like a fair proportion of mail stage facilities; therefore,

Be it resolved, That our senators in Congress be instructed, and our representatives requested, to use their exertions to procure the location of such a line of mail stages.

Resolved, That the governor be requested to forward a copy of this resolution to each of our senators and representatives in Congress.

CHAPTER CCLXXXVII.

A Joint Resolution to correct an error in copying the general appropriation bill of last session.

[APPROVED, JANUARY 21, 1839.]

WHEREAS, by an error which inadvertently occurred in enrolling the bill making general appropriations for the year eighteen hundred and thirty-eight, the item was omitted appropriating seventeen hundred and fifty dollars to pay the salary and contingent expenses of the state geologist, as by law provided; which item had been duly passed by both Houses: Therefore, for correction of said error,

Be it resolved by the General Assembly of the State of Indiana, That the above sum of seventeen hundred and fifty dollars be, and the same is hereby appropriated, for the above purpose, to be paid out by the treasurer of the state in the same way as if no such error had occurred.

This joint resolution to take effect and be in force from and after its passage.

CHAPTER CCLXXXVIII.

A Joint Resolution relative to the three per cent. on lands in the state, sold at Cincinnati.

[APPROVED, FEBRUARY 12, 1839.]

WHEREAS, there has been much land, lying in the state of Indiana, sold at the Land Office at Cincinnati, upon the nett proceeds of which the state of Indiana has not received the amount of three per cent. due; therefore,

Be it resolved by the General Assembly of the State of Indiana, That the treasurer of state be, and he is hereby authorized, to take such measures as he may deem proper to adjust the claim of the state to the three per cent., due the state of Indiana upon the nett proceeds of lands lying in this state, which have been sold at the land office at Cincinnati, and report his proceedings thereon to the next General Assembly of this state.

CHAPTER CCLXXXIX.

A Joint Resolution relative to section No. 21, of the Wabash and Erie canal west of Tippecanoe.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, it is represented to this General Assembly by Robert and Michael English, contractors on that part of the Wabash and Erie canal west of Tippecanoe, known as section number 21, that from the nature of their contract and the work to be done, much extra work was done by direction of the late resident engineer, A. Davis, deceased, for which the present acting engineer refuses to make the proper estimates whereby the said contractors will suffer great loss: therefore,

Be it resolved by the General Assembly of the State of Indiana, That Jesse L. Williams, chief engineer, is hereby directed, by himself, or other competent engineer, to make an investigation of the said subject of complaint of the said contractors, and, if it appear, on such investigation, that any work done in pursuance of the contract, and was directed to be done by the proper resident engineer or acting commissioner, has not been estimated and payment allowed therefor, such estimate and payment shall be allowed as justice to said contractors and the state demands.

This joint resolution to take effect and be in force from and after its passage.

CHAPTER CCXC.

A Joint Resolution to authorize the Secretary of State to perform an act therein named.

[APPROVED, FEBRUARY 15, 1839.]

WHEREAS, the word Martin, has from some cause been omitted in the first section of an act to amend an act entitled "an act dividing the state into judicial circuits and fixing the time for holding courts therein," approved, January 28, 1839; therefore,

Be it resolved by the General Assembly of the State of Indiana, That the secretary of state is hereby authorized and required to insert said word in said first section of the act aforesaid in the place where it properly belongs, and was intended to be.

CHAPTER CCXCI.

A Joint Resolution of the General Assembly of the State of Indiana.

[APPROVED, FEBRUARY 5, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the Governor of this state be, and he is directed to cause to be communicated to the Executives of the several states of the Union, copies of the joint resolution, adopted by this General Assembly, entitled "A joint resolution relative to the southern states," with a request that the same be by them communicated to their respective state legislatures.

CHAPTER CCXCH.

A Joint Resolution relative to a mail stage route therein named.

[APPROVED, FEBRUARY 14, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That our Senators and Representatives in Congress use their exertions to procure the passage of a law, establishing a tri-weekly stage route between the town of Fort Wayne, in Allen county, and the town of Elkhart, in Elkhart county, connecting at that point with the Adrian and Michigan City line; and that his excellency the Governor send a copy of this resolution to each of our Senators and Representatives in Congress, as soon as convenient.

CHAPTER CCXCIII.

A Memorial and Joint Resolution on the subject of the refuse lands in the counties of Jackson, Scott, and Clark.

[APPROVED, FEBRUARY 18, 1839.]

WHEREAS, there remains a large portion of public lands within the limits of Jackson, Scott, and Clark counties, which it is not probable will soon be sold, and which can only be rendered valuable by the construction of some great thoroughfare through said counties, in their vicinity, terminating at the falls of the Ohio river, and that whereas no section of the state seems to call more loudly for the construction of such a work, and none more susceptible of improvement; therefore,

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives be requested to use their influence in procuring a law to be passed granting a portion of the said land to the state of Indiana, to be applied towards the construction of a free public highway upon the M'Adam plan, from some contingent point on the Madison and Lafayette rail road, at or near Columbus, thence through said counties to the falls of the Ohio river.

Be it further resolved, That the Governor of this state be requested to forward a copy of this memorial and joint resolution to each of our Senators and Representatives in Congress.

CHAPTER CCXCIV.

A Joint Resolution for the benefit of John K. Welch, late collector of Clark county.

[APPROVED, FEBRUARY 15, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the auditor of public accounts be, and he is hereby authorized to issue a warrant, and the treasurer of state to pay to John K. Welch, late collector of Clark county, the sum of thirteen dollars and seventy-seven cents, by him improperly paid into the state treasury, upon the Auditor being satisfied of the correctness of said claim.

This resolution to take effect and be in force from and after its passage.

CHAPTER CCXCV.

A Joint Resolution concerning Standing Committees.

[APPROVED, FEBRUARY 11, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That after the present session of the General Assembly, the standing committees of the House and of the Senate, and the joint standing committees shall be constituted as follows: the standing committees of the House shall consist of seven members each, the standing committees of the Senate shall consist of five members each, and the joint standing committees shall consist of three Senators and three Representatives each: Provided, however, that the said standing committees of the Senate shall be elected by the members thereof annually, any law or usage to the contrary notwithstanding.

CHAPTER CCXCVI.

A Joint Resolution of the General Assembly of the State of Indiana, relative to the State Seal.

[APPROVED, JANUARY 21, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That it shall be the duty of the secretary of state to procure to be engraved, as soon as possible, a state seal, as near as can be after the model of the present one; and also to procure a good and sufficient press for the use of the secretary's office; and the expenses, attending the same, shall be paid out of any money in the state treasury, not otherwise appropriated.

This joint resolution to be in force from and after its passage.

CHAPTER CCXCVII.

A Memorial and Joint Resolution on the subject of a school for the education of the deaf and dumb.

[APPROVED, JANUARY 21, 1839.]

The General Assembly of the State of Indiana, would respectfully represent, that there is a large number of deaf and dumb youths in this State, who are growing up without the benefit of an education.

The state being new, and necessarily compelled to employ her resources in other and more common enterprises, she has not been able, so far, to create and sufficiently endow a school for their education; she therefore asks the General Government to do that, which humanity calls for, and which she has done for some of the other states, to wit: to grant a township of land to the State, to aid in support of an institution to be solely devoted to the education of that unfortunate class of human beings in this state, above referred to; therefore,

Be it resolved by the General Assembly of the State of Indiana, That our senators in Congress be instructed, and our representatives requested to use their utmost exertions to procure a grant of land as above specified, for the purposes therein set forth.

Resolved further, That his excellency, the governor, be requested to transmit a copy of this memorial and joint resolution to each of our senators and representatives in Congress.

CHAPTER CCCVIII.

A Joint Resolution of the General Assembly of the State of Indiana, for the relief of William Perdue.

[APPROVED, FEBRUARY 11, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the auditor of state be directed to audit, and the treasurer to pay to William Perdue, collector of the revenue for Washington county, the sum of twelve dollars and fifty-four cents, money over paid by said collector of the state revenue for the year eighteen hundred and thirty-eight (1838.)

This joint resolution to take effect and be in force from and after its passage.

CHAPTER CCCIX.

A Joint Resolution concerning the state library.

[APPROVED, JANUARY 24, 1839.]

Be it resolved by the Senate and House of Representatives of the State of Indiana, That the state librarian transfer to the law library society, all books of reports of decisions in the other states now in the state library, or which may hereafter be placed there; that the treasurer of state be authorized to place in the law library room, a stove of the sort now in

the state library room, or such other stove as will make the room comfortable; and that during the session of the general assembly, it shall be the duty of the state librarian to take charge of the law library room, and of the books therein: *Provided, nevertheless*, that if the directors of the law library society refuse to permit the members of the legislature during each session, to use the books in the law library as they are authorized to use the books in the state library, the foregoing resolution shall become [null] and be void, excepting as to the stove.

This resolution shall be in force from and after its passage.

CHAPTER CCC.

A Joint Resolution relative to the Great St. Josephs River.

[APPROVED, FEBRUARY 15, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That his excellency, the governor, be requested, and he is hereby authorized, to continue his correspondence with the executive of the state of Michigan on the subject of the improvement of the St. Josephs river of Lake Michigan, and to know of him upon what terms, conditions, and restrictions the state of Michigan will prosecute and complete said improvement at her own cost; and with a view to shew the executive and legislature of Michigan the condition of Indiana at this time, and her views in relation to said improvement.

Be it further resolved, That the governor be requested to forward to the executive of Michigan a copy of the report of the committee upon this subject, and of this joint resolution.

CHAPTER CCCI.

A Joint Resolution on the subject of a stage line.

[APPROVED, JANUARY 21, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the postmaster general of the United States be, and he is hereby respectfully requested, to establish a stage line from Bowling Green via Owensburgh, in the state of Kentucky; thence to Rockport, in the state of Indiana; thence to Washington, via Jasper, in said state of Indiana, the same to run three times each week.

Be it further resolved, That our senators and Representatives in Congress be requested to use their exertions to procure the establishment of said line; and that the governor be requested to transmit a copy of this joint resolution to the postmaster general, and one to each of our senators and representatives in Congress.

CHAPTER CCCII.

A Joint Resolution on the subject of the Southern States.

[APPROVED, JANUARY 29, 1839.]

Resolved by the General Assembly of the State of Indiana, That any interference in the domestic institutions of the slaveholding states of this Union, (without their consent) either by Congress or the state legislatures, is contrary to the compact by which those states became members of the Union.

Resolved, That any such interference is highly reprehensible, unpatriotic, and injurious to the peace and stability of the union of the states.

Resolved, That a copy of this resolution be forwarded to each of our representatives and senators in Congress.

CHAPTER CCCIII.

A Joint Resolution relative to Blackford's reports.

[APPROVED, FEBRUARY 14, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That it shall be the duty of the secretary of state, when the laws of the present General Assembly are distributed, to procure and forward to the counties of Jasper, Whitley, and Blackford, the number of copies of Blackford's reports, which they may severally be entitled to by law.

And be it further resolved, That upon the distribution of the acts of the present session of the General Assembly, it shall be the duty of the secretary of state to procure and distribute a like number of the fourth volume of said reports to each organized county in this state as were distributed of the first, second and third volumes.

This joint resolution to be in force from and after its passage.

CHAPTER CCCIV.

A Memorial and Joint Resolution of the General Assembly of the State of Indiana, on the subject of a mail stage route.

[APPROVED, FEBRUARY 5, 1839.]

WHEREAS, a direct line of mail stages from Indianapolis via Hampton, Danville, New Winchester, Bainbridge, Rockville, and West Union, to Newport, the county seat of Vermilion county, would connect with the mail stage route running north and south through the Wabash country, and be of great public utility, passing as it would through a section of Indiana, which in point of improvement and rapidly increasing population is not surpassed by any other portion of the state and which is now without any thing like a fair proportion of mail stage facilities; therefore,

Be it resolved by the General Assembly of the State of Indiana, That our senators in Congress be instructed, and our representatives requested, to use their best endeavors to procure such a line of mail stages.

Be it further resolved, That his excellency, the governor, be requested to forward a copy of this joint resolution to each of our senators and representatives in Congress.

CHAPTER CCCV.

A Joint Memorial of the General Assembly of the State of Indiana in relation to a harbor at City-West.

[APPROVED, FEBRUARY 14, 1839.]

To the Senate and House of Representatives of the United States in Congress assembled.

YOUR memorialists, the General Assembly of the State of Indiana, respectfully represent to your honorable body, that the interest of the people of the State, and of the commerce and navigation of the northern lakes require that the improvement of a harbor at City-West, be constructed and completed with despatch: therefore,

Be it resolved, That our senators and representatives in Congress, be respectfully requested and instructed to use their best exertions to procure and appropriation for that purpose, commensurate with the magnitude of the interest involved, and in satisfaction of the loud calls of humanity for the protection of human life, upon the unprotected part of the coast of lake Michigan.

Be it further resolved, That the governor transmit a copy of this memorial to each of our senators and representatives in Congress.

CHAPTER CCCVI.

A Joint resolution authorizing Patrick M'Ginley to sue the state.

[APPROVED, FEBRUARY 15, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That Patrick M'Ginley, be, and he is hereby authorized to commence a suit in equity against the state in the circuit court of Floyd county, for the purpose of recovering his claims against the state for services rendered by him in the erection of a bridge across Silver creek, on filing his bill in said court and serving notice on David H. Maxwell, or other person having the general superintendence of the New Albany and Crawfordsville rail road. The prosecuting attorney shall appear and defend the suit on the part of the state; and if the said M'Ginley shall obtain a decree, a certified copy of the said decree shall be a sufficient voucher with the board of internal improvement for the payment of the same, and the said court is hereby authorized to take jurisdiction of the same; and it shall be sufficient for said attorney to deny the allegations in said bill under his hand.

This joint resolution to be in force from and after its passage.

CHAPTER CCCVII.

A Joint Resolution on the subject of the public printing done for the state for the year 1838.

[APPROVED, FEBRUARY 18, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That it is hereby made the duty of the secretary of state to demand of Messrs. Nathaniel Bolton and John Livingston, late printers to the house of representatives, the sum of eight hundred and sixty-one dollars and eighteen cents, which was over paid them for public printing done for the house of representatives of the last session of the general assembly, and in case of their refusal to pay the same, he is authorized and it is made his duty to commence suit against them in the Marion circuit court at the next term thereof, in the name of the state of Indiana; and it is made the duty of the prosecuting attorney of the fifth judicial circuit to prosecute said suit to final judgment. It shall be the duty of the secretary of state when said money is collected, to pay the same to the treasurer of state, and take his receipt therefor, and file the same in his office.

This joint resolution to be in force from and after its publication in the Indiana Journal.

CHAPTER CCCVIII.

A Memorial and Joint Resolution in relation to the navigation of Lake Michigan.

[APPROVED FEBRUARY 16, 1839.]

WHEREAS, the navigation of Lake Michigan is rendered precarious and dangerous in the extreme, owing to the want of safe harbors for the use of the shipping on said lake, and most especially for the want of a harbor on the southern extreme or bend of the lake, in consequence of which the southern shore of the same is literally covered with the fragments of wrecks; therefore,

Be it resolved by the General Assembly of the State of Indiana, That our senators and representatives in congress be requested to use their best exertions to procure a survey of the mouth of the Calumic river in this state, with a view to the improvement of the same by the general government.

And the governor is hereby requested to forward a copy of this memorial and joint resolution to each of our senators and representatives in congress.

CHAPTER CCCIX.

A Joint Resolution relative to the Terre-Haute and Spencer M'Adamized road company.

[APPROVED, FEBRUARY 16, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That our senators in congress be instructed and our representatives requested to procure the passage of a law, if they can, granting a pre-emption for five years, at the minimum price, to one half of all the vacant land in five sections deep upon each side of a straight line between Spencer, in Owen county, and Terre-Haute, in Vigo county, to the Spencer and Terre-Haute M'Adamized road company, for the purpose of assisting said company in making a M'Adamized road between said points.

Resolved, That his excellency the governor be requested to transmit a copy of this joint resolution to each of our senators and representatives in congress.

CHAPTER CCCX.

A Joint Resolution of the General Assembly of the state of Indiana.

[APPROVED, FEBRUARY 18, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the governor be, and is hereby directed to inform the governor of the state of Illinois, that an act has been passed by the general assembly of this state, authorizing the survey of that part of the Erie and Michigan canal, necessary to connect with the branch canal contemplated to be constructed in the said state of Illinois, with a view of connecting the Michigan and Illinois canal with the aforesaid Erie and Michigan canal at the boundary line between the two states.

And further, be it resolved, That the disposition evinced by the state of Illinois favorable to those strongest of connexions between political communities, namely, a close commercial alliance by means of roads, canals, &c., is sincerely reciprocated by this state; and that the governor transmit a copy of this joint resolution to the governor of the state of Illinois.

CHAPTER CCCXI.

A Joint Resolution of the General Assembly of the state of Indiana, relative to the Lawrenceburgh and Indianapolis rail road.

[APPROVED, FEBRUARY 15, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the treasurer of state, be, and he is hereby instructed to withhold the issue of any further state bonds to the Lawrenceburgh and Indianapolis rail road company.

Be it further resolved, That any and all bonds and mortgages, heretofore assigned to the state of Indiana by the Lawrenceburgh and Indianapolis rail road company, may run to maturity: *Provided,* the interest on said bond and mortgages, at the rate of five and one eighth per cent. per annum, be semi-annually paid into the Lawrenceburgh branch of the state bank of Indiana, at least one month before due, to the credit of the fund commissioners; *Conditioned,* that said company shall within sixty days surrender its charter, and relinquish all claims for any further amount of state bonds, and shall file with the treasurer of state, a certified copy of such order of surrender and relinquishment, signed by the president and secretary of said company with the corporate seal annexed; but said corporation shall be authorized to continue their corporate powers for twelve months from the passage of

this act, so far as the same may be necessary in closing^g up its affairs: *And conditioned further*, that the board of internal improvement shall value the work done on said road by said company, and direct the treasurer of state to endorse on said bonds and mortgages the amount of such valuation (in proportions on each agreeably to the amount thereof,) but, in such valuation, the board of internal improvement shall estimate the same agreeably to what, in its opinion, said work and improvement is worth to the state.

This resolution to be in force from and after its passage.

CHAPTER CCCXII.

A Joint Resolution concerning the tax on Bank shares.

[APPROVED, FEBRUARY 18, 1839.]

SEC. 1. *Be it resolved by the General Assembly of the State of Indiana*, That it is hereby made the duty of the state bank or the several branches thereof, to pay over to the treasurer of state, all money on hand arising from the tax on shares of individual stockholders.

SEC. 2. It is hereby made the duty of the treasurer of state to loan said fund as other money in his hands, for school purposes is loaned.

This resolution to be in force from and after its passage.

CHAPTER CCCXIII.

A Joint Resolution on the subject of the Michigan and Erie canal.

[APPROVED, FEBRUARY 11, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That our senators in congress be instructed and our representatives requested to use every exertion in their power to obtain a donation of land from the general government to aid in the construction of the Michigan and Erie canal, and that they especially ask a donation to the state for the purposes aforesaid, a large extent of wet, marshy and other unavailable lands lying on both sides of the Kankakee river which may be reclaimed by the state by draining the same and rendered suitable for cultivation.

Be it further resolved, That a copy of the foregoing resolution be forwarded by the secretary of state to each of our senators and representatives in congress.

CHAPTER CCCXIV.

A Joint Resolution relative to the Governor.

[APPROVED, FEBRUARY 12, 1839.]

WHEREAS, there is not any power vested in the Governor of this state by law, to require information from the various public officers and state boards other than such as may be included in the expression, "officers in the executive department," in the eleventh section of the fourth article of the constitution; *And whereas*, it is proper that the governor of this state, in order to be able to perform his just constitutional duties, should be authorized to require information in writing whenever he may think necessary, from all the executive officers, from the state bank, and from all public boards; therefore,
Be it resolved by the General Assembly of the State of Indiana, That it shall be the duty of all officers under the executive department of this state, of the president and directors of the state bank, and of all the boards of commissioners established by law for the discharge of any public duty, whenever required by the governor to give to him such information in writing concerning their duties or the matters entrusted to them as he may require of them.

This joint resolution to be in force from and after its passage.

CHAPTER CCCXV.

A Joint Resolution on the subject of the public printing.

[APPROVED, FEBRUARY 18, 1839.]

Be it resolved by the General Assembly of the State of Indiana, That the printers of the laws and journals, and documentary journals, be allowed forty days after the adjournment of the legislature, to complete the printing thereof.

OFFICE OF THE SECRETARY OF STATE,
Indianapolis, March 21, 1839. }

Indiana, to-wit:

I, William J. Brown, secretary of state, do hereby certify that I have compared the foregoing printed acts, joint resolutions, and memorials with the original rolls now on file in my office, and find the same correctly printed, except the words included in brackets, [thus], which are inserted to supply evident omissions.

WM. J. BROWN.

AUDITOR'S REPORT.

To the Hon. DAVID HILLIS,
President of the Senate:

AUDITOR'S OFFICE, Dec. 16, 1838.

SIR:—Herewith I have the honor to submit my annual Report of the receipts and expenditures on account of the State of Indiana, from the 31st of November 1837, to the 30th of November 1838, both days inclusive, which you will please lay before the Senate.

Respectfully submitted,

MORRIS MORRIS, A. P. A.

A STATEMENT of the Receipts and Expenditures on account of the State of Indiana, from the 1st of December, 1837, to the 30th of November, 1838, both days inclusive, made in pursuance of "An act concerning the Auditor of Public Accounts and Treasurer of State."

RECEIPTS.

Rec'd at the Treas. on account of Revenue for				
		1836	\$525	69
do do do do do	1837	159,931	48	
do do do do do	1838	4,175	91	
				164,633 08
do for sale of lots in Indianapolis		7,373	52	
do do of Michigan road lands		4,500	00	
				11,873 52
do from Commissioners of College Lands		2,152	00	
do from Commissioners of Saline Lands		3,061	52	
				5,213 52
do from borrowers of College F. (refunded)		5,547	00	
do from do Saline F. (refunded)		1,300	00	
				6,847 00
do as interest on Loans of College Funds		4,653	95	
do do do Saline Funds		2,061	97	
				6,715 92
do from Incidental Payments		611	50	
do from Estates without heirs		71	00	
				682 50
Total amount of receipts			\$195,965	54

EXPENDITURES.

On the 31st of Nov. 1837 there was a deficit in the Treasury, provided all claims audited to that date were paid, of
Since the above period there has been audited as follows:

\$5,536 25

For public printing, stationery, distributing the Laws, &c.	18,321	67
For expenses of the last General Assembly	43,412	69
		61,734 35
For salaries of Executive officers	3,297	60
For do Prosecuting Attorneys	1,480	08
do do Supreme and Circuit Judges	16,345	28
do do Probate Judges	3,000	00
do do Adj't & Quarter-Master Gen'ls	75	00
do do State Geologist	1,000	00
		25,197 96
do Expenses incidental to State house	300	00
do do do State Library	591	45
do do do State Prison	985	36
do do do Michigan road	4,500	00
do do do last Pres't. election	10	00
		6,386 81
On account of specific appropriations	6,962	44
Wolf scalps	443	50
School money refund'd to counties	1,884	80
Contingent expenses	1,212	38
Conscientious fines distributed	7	00
Expenses to Seat of Government	1,557	66
Internal Improvements	40,000	00
		52,067 73
Expenses of State College	460	95
Expenses attending collection and loaning Saline fund	144	91
Loans of College funds	14,256	00
Loans of Saline funds	6,715	00
		21,576 86
Total of expenses with deficit	172,500	01
To amount in Treasury on 31st Nov., 1838, provided all claims audited have been paid,	23,465	53
	\$195,965	54

TREASURER'S REPORT.

TREASURY DEPARTMENT, Indianapolis, Dec. 10, 1838.

The Treasurer of State, in obedience to the directions of the "Act concerning the Auditor of Public Accounts and Treasurer of State," submits the following report of the Revenue and Expenditures of the State, and the operations of the Loan Office, &c., from the 1st of December, 1837, to the 30th of November, 1838, both inclusive.

RECEIPTS

During the fiscal year, from revenue of 1836	\$ 525 69
" " 1837	159,931 48
" " 1838	4,175 91
Lots, &c., at Indianapolis,	7,373 52
From sales of Michigan road lands	4,500 00
Estates without known heirs	71 00
Incidental payments	611 50
The receipts and credits in the college branch of the loan office department have been:	
Amount received from William Alexander, commissioner of the reserve township, in Monroe county	1,902 00
Received from James Smith, commissioner of the reserve township, in Gibson county,	250 00
Loans refunded	5,547 00
Interest on loans,	4,653 95
	<u>12,352 95</u>
The amount paid into the treasury of saline fund, appertaining to the loan office, has been, from Andrew Wilson, commissioner of the saline lands in Orange county,	
Henry Young, commissioner of saline lands in Washington county,	2,385 30
Milton M'Phetridge, comm'r. in Monroe county,	618 97
Loans refunded	57 25
Interest on loans	1,300 00
	2,061 97
	<u>6,423 49</u>
	<u>\$195,965 54</u>

THE EXPENDITURES AND LIABILITIES

Of the Treasury during the same period, have been:

Over payments made by treasurer of state during the financial year of 1837,	\$ 5,123 75
Pay and mileage of members of the legislature, including clerks and door-keepers,	43,412 68
Printing and stationary	18,321 67
Specific appropriations	6,962 44
Contingent expenses	1,212 38

Premium on wolf scalps	443 50
Pay of probate judges	2,994 00
Executive officers	3,297 60
Judges of supreme and circuit courts	16,720 28
Circuit prosecutors	1,480 08
Adjutant and quarter-master generals	75 00
Payments on account of state house	300 00
State library	591 45
State prison	1,022 86
Presidential election	10 00
Michigan road	4,500 00
School money refunded	1,884 80
Geological survey	1,000 00
Internal improvements	40,000 00
Conscientious fines distributed	7 00
Seat of government	1,557 66
	<u>150,917 15</u>
The disbursements on account of the college branch of the loan office have been:	
Payments on account of Indiana college, incidental expenses of loan office	460 95
Loans of college fund	14,256 00
	<u>14,716 96</u>
Payments and liabilities on account of saline fund, subject to the loan office laws, are:	
Loans of saline fund	6,715 00
Saline fund expenses	144 91
	<u>6,859 91</u>
Balance on hand, Nov. 30, 1838	23,471 53
	<u>\$195,965 54</u>

[NOTE.—Warrant No. 3101, probate \$6 outstanding.]

CONDITION OF THE TREASURY FOR 1839.

The probable means of the treasury for the year 1839, may be estimated at \$98,721 53, as follows, viz:

Balance in the treasury on the 30th Nov. 1838	\$23,471 53
Revenue of 1838, from polls and taxable property, on the supposition that only 5 cents on the \$100 of the value of taxable property be ultimately retained for state purposes	75,000 00
From sales of lots in Indianapolis	250 00
	<u>\$98,721 53</u>

The expenditures for the same period will be, as estimated below, \$97,731 38, viz:

Salaries of judges and prosecutors	14,000 00
Salaries of executive officers	3,200 00
Printing, stationary, binding and distributing laws	15,000 00
Legislature, including clerks and door-keepers	40,000 00
Contingent and specific appropriations	6,500 00
Probate judges	3,200 00
Wolf scalps	300 00
State prison	1,100 00
State library	350 00
Adjutant and quarter-master generals	150 00
State house	1,500 00
Geological survey	1,700 50
School moneys refunded	500 00
Seat of government	1,760 00
Existing claims unaudited	6,000 00
To which may be added the following liabilities of the treasury, viz:	
Estates without heirs, to be refunded	1,878 38
Conscientious fines to be distributed	543 00
	<hr/> 97,731 38

Leaving an estimated balance in the treasury on the 30th November, 1839, of \$990 15.

From the foregoing exhibits of the receipts and disbursements for the year 1838, and the estimates of the probable condition of the treasury for 1839, it will be seen that the payments into the treasury in the financial year just closed, exceed the expenditures of that year by the sum of \$23,471 53.

And that this balance, together with other estimated payments into the treasury during the approaching year, 1839, will exceed the estimated demands upon the treasury for the same period, by the sum of \$990 15.

Leaving a balance in the treasury on the first of December, 1839, of \$990 15.

It will be perceived that this estimate is made upon the supposition that the poll tax and only 5 cents on the \$100 of valuation of taxable property will be retained in the treasury to be appropriated to the ordinary expenses of the government, and that the remaining property tax will be directed to payment of interest on state loans.

The undersigned has been guided in this arrangement of the estimates by the indications drawn from the partial action of the last General Assembly, and in accordance with the recommendation of the committee of ways and means in reference to this matter, as well as from a conviction that the poll tax and $\frac{1}{2}$ of the present property tax will produce an adequate amount to meet the current expenses of the year, if no extraordinary appropriations shall be made, and rigid economy shall be observed.

But if in the progress of the session, the General Assembly shall deem it necessary to make any considerable additional appropriations, or shall by their action authorize other expenditures than is now provided by law, it will be indispensable, so to increase the per cent. for state purposes as will correspond with such increased demands on the treasury as may be authorized.

The promptitude and fidelity which has marked the collection and payment into the treasury of our public revenue for a series of years, forms a just subject of pride and commendation; but I deem it proper to express my apprehension, that, owing to the pecuniary pressure which has succeeded an unusually buyant and active state of prosperity, we have great reason to expect far more tardy and incomplete collections of the public revenue than has heretofore been made.

If this should occur on an adjustment of the revenue, and expenses so nearly balanced, it would endanger embarrassment to the treasury; but as the payments of the revenue upon which the demands on the treasury for the current year, will be in progress of payment during the session, the legislature will be better advised in reference to this contingency before it is probable that legislative action will be had in reference to the public revenue.

The total amount of valuation of taxable property for 1838, falls short by nearly two and a half millions of that of 1837, a fact affording unerring evidence of pecuniary reaction, and of the just ground for the apprehensions above suggested.

The amount of polls have increased from 1837 to 1838, nearly 6,000, which will increase the revenue from this branch, about in the same proportion as that of the retrograde of the property tax, leaving the gross amount of revenue nearly the same as that of 1837.

The finances of our internal improvement department, do not properly come within the scope of my official duties; but as a portion of the funds for the payment of the interest on the improvement debt, is drawn from the public revenue, and through this department, it will be proper to say, that exclusive of the amount of revenue embraced in the foregoing estimates as necessary for the ordinary expenses of the State, there will probably remain about \$80,000.

Only one half of this amount however, will, under existing laws, be paid over to the fund commissioners for the purpose of discharging interest on the public debt. The balance being \$40,000, will be in the treasury, subject to such direction as the General Assembly may provide.

To provide the means for the payment of the interest on the public debt already contracted, and the annually increasing amounts which must accrue from the augmentation of the public debt, resulting from the further prosecution of the public works in which the state is engaged, is a subject of paramount interest.

The deep concern which attaches to this subject, in view of the im.

portance of preserving unimpaired the high credit of the state, and the difficulties attendant on raising the means necessary for this object, seem to me as presenting a question to which all others connected with the finances of the state, are likely in a great measure, to become subordinate, in regard both to its magnitude and the intensity of interest which it will command in the public mind.

The finances of the internal improvement operations (as before suggested,) not being confided to this department, the undersigned refrains from more than hinting at the importance of the subject—I feel it my duty however, to add my conviction, that if both the action of the general assembly and the future prosecution of the public works shall not be so directed, as shortly to produce from other sources than taxation, an amount sufficient to cover some considerable portion of the interest thus rapidly accumulating, and which *must* be discharged that neither the treasury, nor the ability or patience of the people will be able to bear the overwhelming load of interest, for the payment of which the public faith is sacredly pledged.

The Lawrenceburgh and Indianapolis rail road company, made application to the undersigned in the month of May last, for the appointment of commissioners to value real estate to be mortgaged to that company, with a view of being assigned to the state in exchange for state bonds under the provisions of the improvement act of 1836.

By the report of the company made to the last general assembly, it appears that at that period, the company had (principally out on loan) nearly \$200,000 the avails of former bonds issued to it by the state.

It is also stated in the same report, that the company had for the present, suspended operations on that work, with the exception of one or two contracts not cancelled, and that the work would be resumed only upon contingencies not probable soon to happen.

With these facts officially before me, together with the manifest import of the act, as conveying the intention of the legislature in lending the credit of the state in this case, for the sole object of aiding in the construction of that public work, and no other, it appeared to me that the company had no just claims, at the present, for the issue to it of any further amount of state bonds.

Under this conviction, and by the advise of the executive, the undersigned signified to the company, that he would take no action in the matter at the present, but would postpone the business until the meeting of the general assembly.

In view of the great responsibility resting upon the treasurer of state in this matter, and the peculiar delicacy of his duties, arising from this state of things, I respectfully submit the propriety of such legislative action as will relieve the undersigned from the difficulties which are so apparent in this collision between him and the company.

The various operations in the different departments of the loan office, have been conducted with that safety and thrift to the funds which have heretofore characterized their progress.

In revising the loan office laws at the last session, the act then passed

(through inadvertency, I presume,) changed the interest to be charged on loans of the college fund, back to 6 per cent. per annum.

Not doubting but this change was unintentional on the part of the General Assembly, the undersigned, in order to avoid loss to the fund, has run up the loans of that fund to a considerable amount in advance of the money of that particular fund on hand, previous to the publication of the laws.

I suggest the propriety of passing a law as speedily as may be, placing this fund upon the same footing, as to the interest to be charged on loans, as is authorized in other departments of the loan office.

The condition of the several agencies for loaning the surplus revenue, will shortly be laid before the Legislature, in a general abstract of the operations of the different agencies.

The undersigned was notified by the Cashier of the State Bank, in May last, that that institution would advance to the state the 4th instalment of the surplus revenue of the United States, under the provisions of the act of the 17th February last, and that the amount of \$286,751 48 was subject to the order of the treasurer of state.

That amount was accordingly received of the State Bank, on the 17th day of May last, and on the same day paid over to the sinking fund commissioners, according to the provisions of said act.

The 38th section of the probate law, which requires administrators of estates without known heirs, to pay into the state treasury the residue of the estate, after paying debts, is very deficient in not requiring the state to be made a party in the suit that is authorized to be brought on the petition of the heirs for a decree, that the money be paid over to them by the treasurer of state.

Under the present law, the proceeding is altogether *ex parte*, and it is apprehended that some proceedings have already been had, which may subject the state to pay a second time, the money which had been placed with the state as trustee of the unknown heirs. I respectfully suggest that the law be so amended as to require the auditor of public accounts to be made a party to any such suit, and that it shall be the duty of the prosecuting attorneys to defend the state in such cases.

The payments on account of the state house, and incidental expenses of the last General Assembly, liquidated under the act of last session, amount to about \$850, nearly one half of which has been on account of the latter. A schedule of the whole will shortly be laid before the Legislature.

All of which is respectfully submitted.

N. B. PALMER,

Treasurer of State.

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